REGULAR MEETING
BOARD OF ADJUSTMENT
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

Members of the public also have the option to join the meeting over Zoom
*(See below for more details)**

7:00 P.M. **December 16, 2025**

AGENDA

I. APPROVAL OF MINUTES

A. Approval of the November 18, 2025 meeting minutes.

II. OLD BUSINESS

A. REQUEST TO POSTPONE The request of **909 West End LLC** and **PWED2 LLC (Owners),** for property located at **909** and **921 Islington Street** whereas relief is needed to construct a sign at 921 Islington Street that will be servicing the businesses located at 909 Islington Street which requires the following: 1) Variance from Section 10.1253.10 to allow a sign setback of 4 feet from a lot line where 5 feet are required, 2) Variance from Section 10.1224.90 to allow a sign advertising a product or service not provided on the lot on which the sign is located ("off premise sign"); and 3) Variance from Section 10.1252 to allow 27 square feet of sign area where 20 square feet are allowed. Said property is located on Assessor Map 172 Lots 7 & 10 and lies within the Character District 4-W (CD4-W). **REQUEST TO POSTPONE** (LU-25-134)

B. 134 Pleasant Street – Request for rehearing

III. NEW BUSINESS

A. The request of **Eric Brassard (Owner)**, for property located at **233 Dennett Street** whereas relief is needed to construct a detached accessory dwelling unit and garage which requires the following: 1) Variance from Section 10.521 to allow a) 4-foot left side yard where 10 feet is required. Said property is located on Assessor Map 142 Lot 7 and lies within the General Residence A (GRA) District. (LU-25-155)

B. The request of **R and J 2100 Corporation (Owner)** and **Radmoto USA (Applicant)**, for property located at **2100 Lafayette Road** whereas relief is needed for a change of use from retail bicycle shop to sales of electric mopeds and motorcycles which requires the following: 1) Special Exception from Section 10.440 Use #11.10 to allow Sales, renting or leasing of motorcycles, including accessory repair services. Said property is located on Assessor Map 267 Lot 3 and lies within the Gateway Corridor (G1) District. (LU-25-162)

C. **REQUEST TO POSTPONE** The request of **Stewart Baker Revocable Trust (Owner)**, for property located at **20 Coffins Court** whereas relief is needed for the construction of a spiral staircase on the left side of the home and dormers on the third floor which requires the following: 1) Variance from Section 10.521 to allow a) 4 foot right side yard and a 5 foot left side yard where 10 feet are required, b) 50.5% building coverage where 35% is allowed; and c) 4.5% open space where 20% is required. Said property is located on Assessor Map 135 Lot 53 and lies within the General Residence C (GRC) District. **REQUEST TO POSTPONE** (LU-25-164)

D. The request of **Kenneth J and Rebecca T Nicholson (Owners)**, for property located at **53 Pray Street** whereas relief is needed to demolish and reconstruct the existing sunroom and roof deck, replace the existing patio and driveway, and replace an 8 foot fence which requires the following: 1) Variance from Section 10.521 to allow a 7.5 right side yard where 30 feet is required; 2) Variance from Section 10.515.13 to allow an 8 foot fence in the front yard where 4 feet is allowed; and 3) Variance from Section 10.516.10 to allow a 6.5 foot front yard where 17 feet is required. Said property is located on Assessor Map 102 Lot 40 and lies within the Waterfront Business (WB) and Historic Districts. (LU-25-166)

E. The request of **Chase Home for Children C/O Woodman (Owners)**, for property located at **698 Middle Road** whereas relief is needed to construct a new facility on the property which requires the following: 1) Variance from Section 10.334 to allow the residential care facility use to be extended to another part of the remainder of the land, 2) Variance from Section 10.440 to allow for the construction of a new residential care facility structure. Said property is located on Assessor Map 232 Lot 45 and lies within the Single Residence B (SRB) District. (LU-25-167)

F. The request of **Robert M Snover Revocable Trust (Owners)**, for appeal of the administrative decision to require a variance for Section 10.1530 pertaining to the lot area of the property located at **58 Humphrey's Court**. Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-168)

G. The request of **Robert M Snover Revocable Trust (Owners)**, for property located at **58 Humphrey's Court** whereas relief is needed to subdivide the existing parcel into two parcels which requires the following: 1) Variance from Section 10.521 to allow a) 51.8 feet of continuous street frontage where 80 feet is required, b) 4,840 square feet of lot area where 5,000 square feet are required; and c) 4,840 square feet of lot area per dwelling unit where 5,000 square feet are required. Said property is located on Assessor

Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-168)

H. The request of **Ben and Andrea St. Jean, Braden and Robyn Ferrari, Bob and Laura Gunning, Mike and Zoe Daboul, Tim and Kim Sullivan, and Jamie and Amy Baker** (**Appellants**), for appeal of the administrative decision of a zoning determination pertaining to the side and rear lot lines of the property for a proposed subdivision located at **58 Humphrey's Court** . Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-165)

I. The request of **Michael R and Isaac M. Roylos (Owners)** and **Christopher Cloutier (Applicant),** for property located at **25 Sims Avenue** whereas relief is needed to create a buildable lot which requires the following: 1) Variance from section 10.521 to allow a) 5,000 square feet of lot area where 15,000 is required, b) 5,000 square feet of lot area per dwelling unit where 15,000 is required, and c) 50 feet of frontage where 100 feet are required. Said property is located on Assessor Map 233 Lot 71 and lies within the Single Residence B (SRB) District. (LU-25-169)

IV. ADJOURNMENT

**Members of the public also have the option to join this meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:*

https://us06web.zoom.us/webinar/register/WN_JMq8A5avQBCsLVlsuAQcrw

MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

7:00 P.M. **November 18, 2025**

MEMBERS PRESENT: Phyllis Eldridge, Chair; Members David Rheaume, Paul Mannle, Jeffrey Mattson, Thomas Nies, and Thomas Rossi

MEMBERS EXCUSED: Beth Margeson, Vice Chair

ALSO PRESENT: Jillian Harris, Planning Department

Chair Eldridge called the meeting to order at 7:00 p.m.

I. APPROVAL OF MINUTES

Mr. Rossi abstained from approving both sets of minutes.

A. Approval of the **October 21, 2025** meeting minutes.

Mr. Nies asked that two sentences toward the end of page 4 be changed to read as follows:

"He said the applicant's lot was significantly bigger but due to the slope would have little or no impact on the people on Woodbury Avenue." (The word 'but' was added).

"He said the addition would also be set back from the street, unlike most of the other buildings, which would help with the change in lot coverage." (The word 'addition' replaced the word 'house').

Mr. Nies asked that on page 7 in the last full paragraph, the sentence "*Ms. Casella said they were all conforming but were not the correct distances" should read: "Ms. Casella said they were all conforming but the correct distances were not shown on the Staff Memo."*

*Mr. Nies moved to **approve** the October 21 minutes as amended, seconded by Mr. Mannle The motion **passed** unanimously, 5-0, with Mr. Rossi abstaining from the vote.*

B. Approval of the **October 28, 2025** meeting minutes.

Mr. Mattson asked that the sentence on page 12 of the minutes read as follows: "He said the issue was whether it made more sense doing it through an easement. (The word 'more' replaced the word 'ore').

Mr. Rheaume asked that on page 2 of the minutes, the word 'pass' in the sentence "Mr. Rheaume asked what the pedestrian pass to the retail in the back of the new combined building would be" be changed to the word 'access', so that the sentence now reads: "Mr. Rheaume asked what the pedestrian access to the retail in the back of the new combined building would be."

Mr. Rheaume asked that the sentence under Discussion of the Board on page 4, " He said he agreed with the applicant that a unique characteristic of the property was that it abutted a City parking lot**,** but his concern with what was proposed was that it segregated the pedestrian experience and created an island for the back property" have the word "pedestrian" added to the word "island" so that the sentence now reads: "He said he agreed with the applicant that a unique characteristic of the property was that it abutted a City parking lot, but his concern with what was proposed was that it segregated the pedestrian experience and created a pedestrian island for the back property."

On Page 7 under Decision of the Board, Mr. Rheaume asked that the phrase "30-ft front yards" be changed to "30-ft front yard setbacks" so that the sentence now reads: "He said it came down to creating the second driveway, especially because the applicant was burdened by two 30-ft front yard setbacks that pushed the ADU away from the property line and made using the existing driveway access more problematic."

At the end of the same paragraph, Mr. Nies asked that the word "none" be changed to "one" and that the amended phrase "the structures would be split into two residences" be added, so that the sentence now reads: "Mr. Nies concurred and said that none of the public comments received by the Board indicated a concern that the structures would be split into two residences in the future." Mr. Nies also asked that the following sentence be added after the revised sentence: "He noted that the Planning Ordinances do not currently allow an ADU to have separate ownership."

On page 3, Mr. Nies asked that the second sentence under Speaking in Opposition (Peter Smith) have the word "except" added in front of the words "in conformity" so that the sentence now reads: "He said the ordinance stated that a lawful nonconforming use may not be extended, enlarged, or changed, except in conformity with the ordinance."

*Mr. Mattson moved to **approve** the October 28 minutes as amended, seconded by Mr. Nies. The motion **passed** unanimously, 5-0, with Mr. Rossi abstaining from the vote.*

II. OLD BUSINESS

A. **REQUEST TO POSTPONE** The request of **909 West End LLC** and **PWED2 LLC (Owners),** for property located at **909** and **921 Islington Street** whereas relief is needed to construct a sign at 921 Islington Street that will be servicing the businesses located at 909

Islington Street which requires the following: 1) Variance from Section 10.1253.10 to allow a setback of 4 feet from a lot line where 5 feet are required, 2) Variance from Section 10.1253.20 to allow a sign to be erected and maintained between the heights of 2.5 feet and 10 feet above the edge of the pavements grades where a driveway intersects with a street and lies within an area bounded by (a) the sidelines of the driveway and street and (b) lines joining points along said side lines to feet from the point of intersection, and 3) Variance from Section 10.1224.90 to allow a sign advertising a product or service not provided on the lot on which the sign is located ("off premise sign"). Said property is located on Assessor Map 172 Lots 7 & 10 and lies within the Character District 4-W (CD4-W). **REQUEST TO POSTPONE** (LU-25-134)

DECISION OF THE BOARD [Timestamp 11:50]

*Mr. Rheaume moved to **postpone** the petition with the following **condition**:*

1. *The application shall be readvertised at the expense of the applicant per the Board's rules.*

Mr. Mannle seconded the motion.

Mr. Rheaume said it was a complicated situation where the applicant was putting a sign in an area that was difficult to define and that Board had asked the applicant to provide more information. He said the applicant was still gathering that information and that it looked like it would change the nature of what was needed for a variance request. He said the need to readvertise was appropriate so that the public understood the reason why.

*The motion **passed** unanimously, 6-0.*

Mr. Rheaume recused himself from the following petition.

B. The request of **ZJBV Properties LLC (Owner)** and **Jason Michalak (Applicant),** for property located at **180 Islington Street** whereas relief is needed to establish a personal service use for a tattoo studio which requires the following: 1) Special Exception from Section 10.440 Use #7.20 to allow a personal service use. Said property is located on Assessor Map 137 Lot 19 and lies within the Character District 4-L2 (CD4-L2) and Historic District. (LU-25-137)

Note: The applicant said he would continue with his request even though there were only five voting members.

SPEAKING TO THE PETITION

[Timestamp 14:34] Owner Jason Michalak said he wanted to open a second location on Islington Street and needed a special exception to get the zoning changed from retail to personal services. He

noted that it was a tattoo studio a few years ago and that there was a piercing studio next door to it. He said there would be no alterations to the exterior or interior. He reviewed the criteria.

[Timestamp 16:58] Mr. Rossi noted that there did not seem to be any parking. Mr. Michalak said there was an issue with parking on the property before and that there were two parking spaces on the left side of the building and one space on the right side. He said there was also a moped parking sign in front of the building and that there was two-hour free parking in the street. Mr. Rossi asked how two parking spaces on the property would be adequate for the business. Mr. Michalak said his staff worked by appointment and did not work at the same time. He said cars could be moved throughout the day if necessary. Mr. Rossi asked if the two spaces would be used by the employees or the customers. Mr. Michalak said they would probably be used by the customers. Mr. Rossi asked how many tattoo stations there would be. Mr. Michalak said he would like four stations.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 19:42]

Mr. Rossi asked how the Conditional Use Permit came about and how the property could have zero parking spaces. Ms. Harris said the applicant had to go to the Planning Board because the parking did not meet the dimensional requirements.

*Mr. Mattson moved to **grant** the special exception as presented and advertised, seconded by Mr. Nies.*

Mr. Mattson said the standards as provided by the ordinance for the particular use was permitted by special exception and noted that there was previously a tattoo studio in that location. He said granting the special exception would pose no hazard to the public or adjacent properties because the tattoo studio would be a clean operation using industry-standard equipment and would comply with all requirements. He said it would pose no detriment to surrounding property values of the essential character of the area because there was a tattoo studio there before and there was a piercing studio next door, and it was on a commercial/retail streetscape. He said granting the special exception would pose no traffic hazard or a potential increase in congestion. He noted that the Board had some concern with parking but it was approved by the Planning Board. He said it would be a small operation with only four tattoo stations that would not all be operating at once. He said it would pose no excessive demand on municipal services because it was a tattoo studio that would not have an intensive use for municipal services. He said there would be no significant increase in stormwater runoff onto adjacent properties because there would be no exterior changes. Mr. Nies concurred and said he particularly agreed with Mr. Mattson’s comments about the parking.

Mr. Rossi said he wasn't sure that the Planning Board's authorization of zero spaces for the property automatically implied that it would be appropriate for any conceivable use of the property. He said he remained concerned about the lack of parking for a retail application. Mr. Nies said the Board's judgment was based on the special exception criteria they had and that none of the criteria was related to parking, so it was a question of whether the tattoo studio would create a traffic safety hazard or substantial increase in the level of traffic congestion in the vicinity. He said Islington Street was a very busy one and that there had been similar businesses in the past in that location, so he did not believe that the tattoo studio would cause a significant increase in traffic congestion. He noted that it seemed odd that the Planning Board issued the Conditional Use Permit.

*The motion **passed** unanimously, 5-0.*

Mr. Rossi said he remained concerned that the lack of adequate off-street parking would potentially create a traffic hazard, but he agreed with Mr. Nies' comments.

III. NEW BUSINESS

A. The request of **Rye Port Properties LLC (Owner)**, for property located at **2299 Lafayette Road** whereas relief is needed to demolish the existing site and construct a new carwash facility which requires the following: 1) Variance from Section 10.575 to allow a dumpster to be located 2 feet from the right side lot line where 10 feet are required, 2) Variance from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street, and 3) Variance from Section 10.5B22.40 to allow a building setback of 157 feet from the centerline of Lafayette Road where 90 feet is the maximum and 125 feet from the sideline where 50 feet is the maximum. Said property is located on Assessor Map 272 Lot 4 and lies within the Gateway Corridor (G1) District. (LU-25-141)

SPEAKING TO THE PETITION

[Timestamp 26:54] Project engineer Paige Weidner was present on behalf of the applicant, along with Jason Rice. She said the carwash was a drive-thru type and that the customer could also use the vacuum spaces. She said the layout would allow for a safe and easy circulation. She said it was a membership-based program and explained how the customers would enter and exit the site. She said there would be four employee parking spaces. She said they tried to mitigate their impact on the wetland buffer and would go before the Conservation Commission. She reviewed the criteria.

[Timestamp 33:17] Mr. Rheaume asked about the proposed traffic flow. Ms. Weidner said they provided a pass-by lane in case customers changed their minds about entering the carwash but she did not think it would be used much. She explained in more detail how the customers would enter and exit the carwash. Mr. Rheaume asked how a customer would get to the vacuum stations if they just wanted to use the vacuum. Ms. Weidner said the customer had to pay for a car wash and could not use only the vacuum. Mr. Rheaume asked if the employee parking between the building and the street would be marked as such. Ms. Weidner said they had the option of a dog wash and mat wash area and that a customer could park there, but she predicted that most of the customers would utilize

the vacuum parking. Mr. Rheaume asked how the employees would get to the employees parking lot. Mr. Rice explained that the "little kahuna" wash was a basic wash and a "big kahuna" wash was a full wax, towel, and the use of the dog wash. He explained in detail how the employees would reach the parking. He said they had several carwashes elsewhere, and he named their locations. He said the Portsmouth carwash would be open all year. Mr. Rheaume asked if the applicant attempted to comply with the ordinance by doing something different from their standard model to move the structure closer to the road and reconfigure the lot. Mr. Rice said they did a few variations but the circulation model did not allow the building to be moved farther forward. Mr. Rheaume asked if something drove the pavement's location in terms of exit and entrance. Mr. Rice said they tried to match the greenspace of the Cumberland's next door and Taco Bell. He said they had a work session with City Staff and adjusted a few things based on their conversation with the Conservation Commission. Mr. Nies asked how the applicant settled on the location for the dumpster, noting that there seemed to be other areas on the property where the applicant would not need setback relief. Ms. Weidner said it allowed the trash truck room to maneuver to pick up the dumpster and allowed for as little pavement as possible. Mr. Rossi asked if the entire structure could be moved closer to Lafayette Road. Ms. Weidner said they could explore the option of moving the entire site north. Ms. Harris said the turning radius might have had something to do with it. Mr. Rossi said, given the encroachment of the wetland setback, it imposed a higher burden on allowing a variance to bring the structure farther from the road. He said he had not heard a compelling hardship case. Mr. Mattson said the ordinance would want to have the structure closer to the street and farther away from the setback, and the applicant's argument seemed to be why it had to be where it was, which would bring it closer to the wetlands. Ms. Weidner said it was the circulation issue.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD [Timestamp 50:12]

Chair Eldridge said the 125 feet from the sideline in Variance 3 was not germane to the application and was an error. Mr. Mattson said he had nothing against the concept of the carwash and thought what was proposed was typical, but he said the ordinance had changed to incentivize a different form of development. Chair Eldridge said some of the 157 feet was green space, and if the building were moved closer to the street, the green space would have to be pavement so that cars could move around. She said the applicant would go before the Conservation Commission, whose purview was the wetland, and she thought the applicant made an effort to avoid the wetland. Mr. Rheaume said the Board wanted to create something different, from a vision standpoint, based on feedback from charettes and the character district process. He said the applicant would go before the Planning Board for a Conditional Use Permit and that the site plan would go before the Planning Board and the Technical Advisory Committee, but nevertheless the circulation would result in some kind of distance between the building and the road. He said the dumpster's location made sense.

The Board decided to address each variance separately. [Timestamp 58:44]

*Mr. Rheaume moved to **grant** Variance No. 1 from Section 10.575 to allow a dumpster to be located 2 feet from the right side lot line where 10 feet are required. Mr. Mannle seconded.*

Mr. Rheaume said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said there were commercial uses throughout the Gateway District, although the ordinance was trying to introduce more residential uses, but almost all of them required dumpster service at some point. He said the property was a long and narrow one burdened by wetlands in the back, so the exact location of dumpsters varied from property to property. He said the Board was looking for something that made logical sense for the neighborhood to keep the essential characteristics. He said the applicant said the dumpster would be screened and would be a bit of a distance away from an existing restaurant use, so he did not think the dumpster would look out of place or would be contrary to what the ordinance was trying to accomplish. He said substantial justice would be done because nothing in the general public's needs would outweigh the applicant's desire for the dumpster location and ease of use. He said people passing by would most likely not notice it and it would be hidden from the neighboring properties. He said granting the variance would not diminish the values of surrounding properties because the dumpster's location being somewhat closer to the property edges would unlikely negatively impact the uses of the other businesses that also relied on the dumpster. He said the property was a long and narrow lot burdened by wetlands to the rear, which was a special condition and limited the options to get realistic access for a servicing vehicle to access the dumpster without having to traverse strange ways to get there. He said the dumpster's location was the most logical, based on the applicant's layout. Mr. Mannle concurred and had nothing to add.

*The motion **passed** unanimously, 6-0.*

[Timestamp 1:02:23] *Mr. Rheaume moved to **grant** Variance No. 3 from Section 10.5B22.40 to allow a building setback of 157 feet from the centerline of Lafayette Road where 90 feet is the maximum. Mr. Mannle seconded.*

Mr. Rheaume said there was a desire in the ordinance to get buildings closer to the street so that people driving up to the Gateway neighborhoods would see a building and not parking or other things going on with the property. He said the ordinance wanted more of a suburban feel instead of a wide-open one with parking everywhere. He said it would depend on the Conditional Use Permit being approved by the Planning Board and if granted, it would be an appropriate use for the parcel in the Gateway District. He said the applicant made a good argument that vehicle circulation was a driving factor for a carwash. He said the actual structure was a small portion of what was being taken up on the lot, so he thought it made sense that it would be set back more than what the ordinance envisioned. He said he hoped it would be moved closer to the road but thought that the Technical Advisory Committee (TAC), the Conservation Commission, and the Planning Board would do everything they could to make sure that happened. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said the

ordinance was trying to go to a new model, but certain uses if allowed would not necessarily fit well, especially with the applicant's parcel that drove the structure's location. He said substantial justice would be done because the applicant's need for vehicle circulation outweighed the need for the building to be closer to the street. He said it would not diminish the values of surrounding properties because the structure would remain a unique one with a unique use and would provide a little variety, and he did not see it impacting property values. He said a special condition of the property was that it was a narrow and deep one burdened by concerns of vehicle access coming in and out of Lafayette Road. He said there were some setback requirements as well for any future expansion.

Mr. Mattson said the project made sense. Mr. Rossi said his concerns were not with the site's appearance from the road but that he did not see a clear case for hardship for granting the maximum allowed setback. He said he would not support the motion. Ms. Harris said there was a recommended Staff condition. Mr. Rheaume said the Board understood that it would be going through the site plan process and that it was complicit in their approval and that they understood that the building might change a bit. Mr. Nies said he was concerned about whether the project was in keeping with the ordinance but thought the ordinance was acting like the only development going on in that area was housing, so it was silent so some extent about how it felt with proposals like the applicant's, which was why the Planning Board decision for a Conditional Use Permit would be important. He also noted that the sidewalk on Lafayette Road currently stopped before it got to the project, and the project included a sidewalk. Mr. Mannle said he saw no problem with the project and noted that it would need variances under the old ordinance.

*The motion **passed** by a vote of 5-1, with Mr. Rossi voting in opposition.*

[Timestamp 1:12:06] *Mr. Mannle moved to **grant** Variance No. 2 from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street, as presented and advertised. Mr. Nies seconded.*

Mr. Mannle noted that the zoning changed about ten years ago and that granting the variance would not be contrary to the public interest. He said he did not think the public would care. He said it would observe the spirit of the ordinance because the ordinance did not want parking spaces between the principal building and the road because the entire gateway was redesigned to be more pedestrian friendly. He noted, however, that pedestrians had to get there and they were not walking down Lafayette Road. He said substantial justice would be done. He said it was a car wash and the employees had to park somewhere. He said changes could be made but they would not change the nature of the variance. He said it would not diminish the values of surrounding properties because the business would be a thriving one. He said literal enforcement of the provisions of the ordinance would result in unnecessary hardship. He said the carwash would bring in a lot of cars but did not think three spaces that close to the road would be a big deal, considering how the ordinance for the property next door was abandoned three years before. He said that property would have been the test for the ordinance, and he did not believe that moving the parking to the back of the property and redesigning the project was necessary. He said the applicant came with a program and said it

worked, and he would not question that. Mr. Nies said the four spaces were not between the building and the street but were offset to the side. He said the language of the ordinance did not say "closer to the street than the building" but said "between the building and the street". He said he would support the motion but was not convinced that the applicant really needed the variance because of the location of the spaces. Mr. Rheaume said he was torn because he did not think the parking spaces were the end all of what the ordinance was trying to accomplish. He noted that the applicant had 24 vacuum spots and thought six of those could be absorbed for parking, but he didn't think it was worth being picky about. Mr. Rossi said he agreed with Mr. Nies' comments.

*The motion **passed** unanimously, 6-0.*

B. The request of **Peter Gamble (Owner)**, for property located at **170 Aldrich Road** whereas relief is needed to demolish the existing detached garage and construct a new two-story garage which requires the following: 1) Variance from Section 10.521 to allow a) 7 foot right side yard where 10 feet are required, and b) 25% building coverage where 20 % is allowed. Said property is located on Assessor Map 153 Lot 21 and lies within the Single Residence B (SRB) District. (LU-25-150)

SPEAKING TO THE PETITION

[Timestamp 1:18:12] The owner Peter Gamble was present. He gave a short history of the property, noting that he was before the Board in 2023 and received a denial without prejudice for the purpose of resolving a land dispute issue. He said that issue was resolved through adverse possession and that his neighbor received 919 square feet of his property. He said he wanted to expand his 24x24' garage to a 26x30' one with a partial second floor to create more parking space, a workshop area, and a second-floor workout and recreation space. He showed an engineering survey of the property and explained why the best option was to demolish the existing structure. He said the property was a lawful non-conforming structure for use as a two-family home but two-family homes were no longer allowed. He said his proposal allowed him to do something with the accessory building but the single-residential zone prevented any additional living spaces and he would not add another dwelling unit. He said it would be consistent with similar properties in the area. He reviewed the site plan and said the City's right-of-way was maintained by him and gave the impression of open space, light, and a larger lot. He reviewed the rest of the criteria.

[Timestamp 1:30:54] Mr. Rheaume asked if the calculations of about 800 sf of lawn was really City property. Mr. Gamble agreed. Mr. Rheaume said Mr. Gamble would be five percent over the coverage requirements, so if that were his property, he would have the 500 square feet that he would have to be within after the project was completed.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION [Timestamp 1:32:08]

Ed Reynolds of 110 Aldrich Road said he supported the project because it would enhance the neighborhood.

No one else spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 1:33:06]

*Mr. Rossi moved to **grant** the variances as presented and advertised, seconded by Mr. Mattson.*

Mr. Rossi said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said one of the intents of the ordinance with regard to setback and lot coverage was to maintain adequate light and air in the surrounding properties, and in this case, he said the structure was very well separated from any other structures. He said the topography of the surrounding properties, particularly the one behind the applicant's, preserved views for everyone and there was nothing about the property that would be contrary to what the ordinance was trying to achieve. He said substantial justice would be done because there would be no loss to the public by allowing the project to go forward, therefore the loss to the applicant by a denial would outweigh the benefit to the public. He said granting the variances would not diminish the values of surrounding properties because the project was in keeping with what was going on in the neighborhood and was consistent with the renovations made in nearby properties. He said he could not imagine, nor had any information been presented to the Board, that would support a conclusion that granting the variances would diminish the values of the surrounding properties. Relating to hardship, he said there were special conditions associated with the property including that it was a sub-sized lot relative to lot requirements and some of the lot was lost in the legal action, so the lot coverage had some constraints imposed on the owner. He said there visually was a strip of City-owned property that made the lot appear larger and weighed in favor of taking a lighter touch with regard to lot coverage. He said the engineering requirement to create a new foundation was logical and necessarily edged the structure closer to the right side property line to create a little bit less of a setback than had been there. He said that because of where the property and structure were situated, the structure was nowhere near other structures on surrounding properties, so those conditions were unique to the property and satisfied the hardship requirement. Mr. Mattson concurred. He said he was a fan of post-and-beam structures because they were more of a premium upgrade compared to the standard garage, so he had no concern about diminishment of surrounding property values. Relating to the character of the neighborhood, he said it was a tastefully done proposal.

*The motion **passed** unanimously, 6-0.*

C. The request of **Sean M** and **Katherine M McCool (Owners)**, for property located at **345 Leslie Drive** whereas relief is needed to demolish the existing front porch, construct a new front porch, and create livable space within the existing carport which requires the following: 1) Variance from Section 10.521 to allow a) 27.5 % building coverage where 25% is the maximum allowed, b) 7 foot right yard where 10 feet are required; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be

extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 209 Lot 77 and lies within the Single Residence B (SRB) District. (LU-25-153)

[Timestamp 1:38:21] Chair Eldridge noted that Variance No. 1 was 21 percent and not 27.5 percent where 20 percent was required, so it was a change but the table was still correct.

SPEAKING TO THE PETITION

[Timestamp 1:39:37] William Shery of Haseltine Builders was present on behalf of the applicant. He said they wanted to renovate the 1956 two-bedroom home to provide more living space by adding 387 square feet that would include a bedroom, bath, and mudroom. He showed photos and reviewed the criteria. The owner Sean McCool was also present and said he and his wife had a growing family and that he wanted to provide each person with their own space.

[Timestamp 1:44:31] Mr. Rheaume said the Staff Memo indicated that there were three parking spots currently, but there would only be two if the garage and carport area were removed. He asked where the parking spots would be. Mr. Sherry said the stairs currently went out from the house but would go down along the front of the house to the side yard to preserve that parking.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 1:45:44]

*Mr. Nies moved to **grant** the variances as presented and advertised, seconded by Mr. Mannle.*

Mr. Nies said it was a very modest change that would make good use of the existing footprint and that it was a good design to increase the use of the house without having much impact on anyone besides the applicants, in a good way. He said granting the variances would not be contrary to the public interest because it was the same structure externally and would not affect the neighborhood's health, safety, and welfare, would not have a negative effect on light and air, and would not alter the essential characteristics of the neighborhood. He said it would observe the spirit of the ordinance because the house would be a single-family one consistent with the neighborhood. He said it would do substantial justice because there would be no benefit to the public that would outweigh the harm to the applicant if he were denied. He said if the petition were denied, the applicant would have to come up with a way to improve the livability of the house with a growing family. He said granting the variances would not diminish the values of surrounding properties because there would be no change in the footprint and it would make more usable space and probably increase the values of surrounding properties. He said literal enforcement of the ordinance would result in unnecessary

hardship due to the property's special conditions, including the location of the existing structure that was very close to the right side lot line. He said the lot was undersized for the zoning, and the availability of the current space for the carport made it convenient for reuse with minimal impacts on anyone. He said owing to those special conditions, there was no fair and substantial relationship between the purpose of the ordinance and its specific application to the property. Mr. Mannle concurred and had nothing to add.

*The motion **passed** unanimously, 6-0.*

D. The request of **Kelly Ann** and **Kenneth Racicot (Owners)**, for property located at **34 Marne Avenue** whereas relief is needed to construct a porch on the right side of the structure which requires the following: 1) Variance from Section 10.521 to allow a 3 foot right yard where 10 feet are required. Said property is located on Assessor Map 222 Lot 33 and lies within the General Residence A (GRA) District. (LU-25-154)

SPEAKING TO THE PETITION

[Timestamp 1:49:08] The owner Ken Racicot was present and said he wanted to increase the porch on the right side of the property and create more of an outside social space. He said the property had a pork chop shape and the porch would encroach on the setback from the angled corner part of the lot. He said the new porch would be 8x16'. He reviewed the criteria.

[Timestamp 1:52:14] Mr. Rossi said he went by the property and that the side porch did not look like it was 10 feet from the fence. The building contractor John Bailey was present and said it was more like eight feet. Mr. Rheaume asked why it was indicated as 10 feet on the Staff Memo. Mr. Bailey said it might have been from an old survey before the porch was there. Mr. Nies said MapGeo did not have the current porch on it and the corner looked like it was out ten feet.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 1:55:56]

*Mr. Rossi moved to **grant** the variance as presented and advertised, seconded by Mr. Mattson.*

Mr. Rossi said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said there was no public interest to be served by denying the variance. He said it was off to the side of the property and would not impinge on the public's enjoyment of walking down the avenue. He said substantial justice would be done because there would be no impact on the public interest and no impact on the public's ability to enjoy the

surrounding properties or the streetscape. He said granting the variance would not diminish the values of surrounding properties. He said there was a substantial fence separating the property from the abutting one, and he did not think that extending the porch corner out to within three feet of the fence would have a negative impact on surrounding properties. He said literal enforcement of the ordinance would result in an unnecessary hardship due to unique aspects of the property that made it unnecessarily difficult to comply with the ordinance. He said the property had an odd pork chop shape, and because of the way the lot line angled toward the house from the front of the property in the area where the porch would be built, it pitched off the right rear corner of the structure. He said that was a unique condition of the property that militated in favor of granting the variance because having to comply with the 10-ft setback would mean that one could not do anything with the structure on that side and it served no purpose to force that issue. Mr. Mattson concurred. He said that, due to the irregular shape of the lot and the angle of the property line, it was only a small corner of the porch that was imposing, so the feeling was far less imposing than what was proposed on paper. He also noted that from the corner there was the fence, and on the other side the neighbor had a shielding garage. Mr. Rheaume noted that sometimes the Board was concerned with a 3-ft setback in maintaining the structure, but it was only one tiny corner and there was room for a ladder and other ways to maintain the structure on the other two sides of it.

*The motion **passed** unanimously, 6-0.*

E. The request of **Brian** and **Margaret Corain (Owners)**, for property located at **61 Lawrence Street** whereas relief is needed to construct an addition in place of an existing deck and partial re-construction of the second floor of the existing home which requires the following: 1) Variance from Section 10.521 to allow a) a 24 rear yard where 30 feet is required, b) 27% building coverage where 20% is the maximum allowed; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 152 Lot 28 and lies within the Single Residence B (SRB) District. (LU-25-148)

SPEAKING TO THE PETITION

[Timestamp 2:01:33] The owner Brian Corain was present and said he wanted to convert the multi-family house back to a single-family home. He said the mudroom and staircase had access to the second floor and that the deck would be an enclosed entryway. He reviewed the criteria.

The Board had no questions. Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing. Chair Eldridge noted that several letters of approval were submitted by the neighbors.

DECISION OF THE BOARD [Timestamp 2:05:48]

*Mr. Rheaume moved to **grant** the variances as presented and advertised, seconded by Mr. Nies.*

Mr. Rheaume said there was a fairly substantial addition going on the property but the actual portion of concern to the Board was that the small current rear deck being expanded upon vertically was not the most substantial portion and was within the footprint and was just a modest vertical expansion of that. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said it was a relatively modest back expansion in a house that had been around a while and was typical of many of the neighborhood properties. He said the expansion would not be contrary to the general character of the neighborhood. He said it would be on the rear side of the property and that only the two neighboring properties would observe it as well as a few pedestrians. He said substantial justice would be done because it would remove a substantial egress structure and the addition would take better advantage of the property. He said it would not diminish the values of surrounding properties because it would be a tasteful addition that would be in keeping with the residential character of the neighborhood and would not negatively impact property values. He said the property was unique due to the way the properties were subdivided in that area, noting that two neighbors had unusually large lots, one of which had a long distance and the home positioned far away. He said concerns of light and air were mitigated by the placing of the property lines of the neighboring homes. He said it was a modest expansion of an existing residential use and would be in keeping with the general character of the zone and the neighborhood in general. Mr. Nies concurred and had nothing to add.

*The motion **passed** unanimously, 6-0.*

F. The request of **Stefanie Casella** and **Finn Johnson (Owners)**, for property located at **268 Dennett Street** whereas relief is needed to demolish and reconstruct an addition which requires the following; 1) Variance from Section 10.521 to allow a) a 0-foot right side yard where 10 feet is required, b) 28.5% building coverage where 25% is the maximum; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 143 Lot 13-1 and lies within the General Residence A (GRA) District. (LU-25-156)

SPEAKING TO THE PETITION

[Timestamp 2:11:04] The owner Stefanie Casella was present and said she and her husband wanted to demolish the right side of the home and reconstruct it with an addition. She said a lot line adjustment was made around 2011 to allow for the zero-foot setback. She said they wanted to create more living space on the second floor and make the breezeway space into a livable space on the first floor. She said an exterior door emptied into the neighbor's side yard and was only accessible to that space from that yard, and the roof on that side dumped everything into the side yard of 276

Dennett Street, but she proposed to tie that roof into the existing roofline so that they could access that space from the interior. She reviewed the criteria.

[Timestamp 2:16:22] Mr. Rossi said the lower left portion of the lot line seemed a lot closer to the rear of the structure than what was indicated in the current conditions. Ms. Casella showed where the rear lot line was and said it was the most distant lot line.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 2:18:04]

*Mr. Rossi moved to **grant** the variances as presented and advertised, seconded by Mr. Rheaume.*

Mr. Rossi said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said the overall arching fact was that the footprint of the structure would not change, and the shape and appearance of it would but not in a way that would affect the conformance with the spirit of the ordinance or the public interest. He said substantial justice would be done because there would be no loss to the public by changing the exterior appearance of the property and there would be no encroachment on walkways or anything that would affect the public. He said it would not diminish the values of surrounding properties, noting that nothing was presented to indicate any negative impact on them. He said modernizing and updating the look of the structure would have a positive impact on surrounding properties. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the property's hardship was that the lot line was drawn after the structure was built and it created the zero setback that would be impractical to change and would be a real hardship to the enjoyment of the property if it were to be literally enforced. He said the building coverage would not change.

Mr. Rheaume concurred. He said he was on the Board in 2017 when the lot line adjustment was approved and that the property was two lots of record that were owned by the same people for decades. He said the original home was set all the way on one of the lots, and the garage was built and expanded upon over the years. He said in 2017, the owner wanted to split the ownership, and one of the reasons the Board approved it was the maintenance easement on the neighboring property and the ability to maintain the property. He said the Board approved the zero-foot lot line and what the applicant was proposing would not affect the nature of that approval. He said it was a modest height increase that would just change the roofline and that it was a sensible next step in the evolution of the structure into a practical use.

Mr. Mattson suggested a condition that would allow flexibility in the window and door locations, given that the footprint would remain the same. Mr. Rossi and Mr. Rheaume accepted the condition.

The **revised** motion was:

*Mr. Rossi moved to **grant** the variances as presented and advertised, with the following **condition**:*

1. *The applicant shall be granted flexibility to adjust doors and windows as construction details are finalized.*

Mr. Rheaume seconded the motion.

*The motion **passed** unanimously, 6-0.*

IV. ADJOURNMENT

The meeting adjourned at 9:24 p.m.

Submitted,

Joann Breault
BOA Meeting Minutes Taker

II. OLD BUSINESS

A. The request of **909 West End LLC and PWED2 LLC (Owners),** for property located at **909 and 921 Islington Street** whereas relief is needed to construct a sign at 921 Islington Street that will be servicing the businesses located at 909 Islington Street which requires the following: 1) Variance from Section 10.1253.10 to allow a sign setback of 4 feet from a lot line where 5 feet are required, 2) Variance from Section 10.1224.90 to allow a sign advertising a product or service not provided on the lot on which the sign is located ("off premise sign"); and 3) Variance from Section 10.1252 to allow 27 square feet of sign area where 20 square feet are allowed. Said property is located on Assessor Map 172 Lots 7 & 10 and lies within the Character District 4-W (CD4-W). (LU-25-134)

Planning Department Comments

An error in noticing has postponed this item to the January 2026 BOA meeting.

II. OLD BUSINESS

B. The request of **Double MC, LLC** for property located at **134 Pleasant Street** to rehear the denied variances from the October 28, 2025 BOA meeting.

Planning Department Comments

At the October 28, 2025 Board of Adjustment meeting the Board considered the request of **Double Mc LLC (Owner)**, for property located at **134 Pleasant Street** whereas relief is needed for redevelopment of the existing commercial building and construction of horizontal and vertical building expansions for a mixed use building with below-grade parking and the relocation of drive-through teller lanes, which requires the following: 1) Variance from Section 10.440, Use #19.40 for a drive-through facility as an accessory to a permitted principle use; and 2) Variance from Section 10.331 to change the location and use of the drive-through facility.

> *The Board voted to **deny** the request as it does not meet the public interest or the spirit of the Ordinance.*

A request for rehearing was filed within 30 days of the Board's decision. If the Board votes to grant the request, a hearing will be scheduled for next month's Board meeting or at another time to be determined by the Board. The decision to grant or deny a rehearing request must occur at a public meeting, but this is not a public hearing. The Board should evaluate the information provided in the request and make its decision based upon that document. The Board should grant the rehearing request if a majority of the Board is convinced that some error of procedure or law was committed during the original consideration of the case.

The past application can be referenced in the October 28, 2026 meeting packet found at the following link: https://files.portsmouthnh.gov/agendas/2025/BOA/10-28-2025%20Meeting/10-28-2025_BOA_Packet.pdf

RATH
YOUNG
PIGNATELLI

INSIGHT MATTERS

James J. Steinkrauss
Attorney-At-Law
jjs@rathlaw.com
Please reply to: Concord Office

November 26, 2025

VIA ONLINE SUBMISSION & HAND DELIVERY

Phyllis Eldridge, Chair
City of Portsmouth Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: Motion for Rehearing – LU-25-138
Application for Variance
Owner/Applicant: Double MC, LLC
Property: 134 Pleasant Street, Portsmouth, NH
Tax Map 116, Lot 30
Zoning District: CD4

Dear Chair Eldridge,

Please find enclosed a Motion for Rehearing filed with the Zoning Board of Adjustment on behalf of our client, Double MC, LLC in Docket No. LU-25-138. This Motion for Rehearing requests the Zoning Board of Adjustment's reconsider the denial of variances for the above-referenced property at the October 28, 2025 public hearing and subsequent Letter of Decision and Findings of Facts issued on October 30, 2025. The Motion for Rehearing includes four (4) attached exhibits. A copy of this Motion for Rehearing and exhibits was also filed online with the Planning Department.

Given the submission of this application today, pending review by the Zoning Board of Adjustment, the matter should be added to the Board's agenda for the meeting on January 21, 2026. However, if the Board would prefer to consider this motion sooner, we would be available to attend the meeting should the Board have any questions regarding the motion at the next meeting on December 16, 2025.

If you have any questions or comments, please feel free to contact me at (603) 410-4314, or my colleague, Micheal O'Neil at (603) 410-4315. Thank you for your attention to this matter.

Sincerely,



James J. Steinkrauss

Enc.
Cc: Michael K. O'Neil, Esq., Rath, Young & Pignatelli, PC (via electronic mail)
Double MC, LLC (via electronic mail)
John Chagnon, Haley Ward Engineering (via electronic mail)
Francis X. Bruton, III, Esq., Bruton & Berube, PLLC (via electronic mail)
ARCove, LLC (via electronic mail)

DOUBLE MC, LLC, APPLICANT

PORTSMOUTH ZONING BOARD OF ADJUSTMENT

LU-25-138

134 Pleasant Street, Tax Map 116, Lot 30

MOTION FOR REHEARING

NOW COMES, Double MC, LLC ("Owner" or "Applicant"), by and through its attorneys, Rath, Young, and Pignatelli, P.C. and, pursuant to RSA 677:2, respectfully requests that the Portsmouth Zoning Board of Adjustment ("ZBA") allow this Motion for Rehearing and reconsider the ZBA's October 30, 2025 decision and findings of fact denying the Applicant variances in connection with the Applicant's proposed redevelopment at 134 Pleasant Street, Portsmouth located on Assessor's Tax Map 116, Lot 30 ("Subject Property").

I. Introduction

The Applicant proposes to redevelop the Subject Property to make it more pedestrian friendly, to improve the public's safety, health, and welfare, and to substantially reduce and improve the existing, grandfathered non-conforming use of drive through teller lanes on the Subject Property. The proposed redevelopment will enhance the Subject Property's use in conformance with the spirit of the Ordinance in a myriad of other ways, including bringing the property into conformance with the maximum set back applicable to the property.

The ZBA erred when it denied Applicant's variance request on the grounds that the variance would be contrary to the public interest and would not observe the spirit of the Ordinance. The ZBA erred by making findings against the weight of evidence presented in the Application and at the public hearing. It erred technically by considering factors, including traffic flow and parking impacts, which are beyond the scope of its proper review and by denying a variance where none is required under the Ordinance. Accordingly, the ZBA should grant the

Applicant a rehearing of its variance request and should issue a corrective decision granting the variance requested or, in the alternative, finding that no variance is required.

II. Background Facts

a. Site History and Proposed Redevelopment

The Subject Property is located at 134 Pleasant Street, Portsmouth, NH, Assessor Map 116, Lot 30. It lies within the Character District 4 ("CD4") and Historic District. The lot contains 53,084 square feet with an existing two-story building with 11,241 square feet for ground floor retail area that is utilized as a bank. The existing conditions is shown on the plan entitled, "Site Survey, Double MC, LLC – 134 Pleasant Street, Portsmouth, Existing Conditions Plan - V101," and the Existing Drive Up Window Dimension Sketch, both prepared by Haley Ward, submitted to the Zoning Board of Adjustment on September 25, 2025.[1] The existing building is set back approximately seventy feet (70') from Pleasant Street. Within that 70' setback (i.e. in between the existing building and Pleasant Street), there are two (2) drive-through lanes and teller windows.[2] Those drive-through lanes are accessed by a curb-cut onto Pleasant Street at the southeast corner of the Subject Property, and the drive-through lane exit leads through a second curb cut onto Pleasant Street near the northeast corner of the Subject Property.[3] The teller windows look out towards Pleasant Street, the vehicles utilizing the drive-through lanes travel towards the abutter to the north of the Subject Property, which property includes a residential development and a private business. The drive-through lanes and windows have existed and have been in use since approximately 1982.[4]

[1] See, Meeting Materials Packet for the October 28, 2025 ZBOA Meeting attached as Exhibit A, Existing Conditions Plan at 36, and Existing Drive Up Window Dimension Sketch at 32.
[2] See Exhibit A at 32 and 36.
[3] See Id.
[4] See Exhibit A, Application for Variance at 26.

Generally, the Applicant proposes to redevelop the site and to modify the existing building, and add to it, to create a two to three story mixed-use building containing retail and residential uses and to house a bank with drive-through teller lanes.[5] The planned new building will reduce the setback from Pleasant to ten feet (10') to activate pedestrian traffic on Pleasant Street and to bring the Subject Property's use in conformance with the CD4 setback requirements.[6]

b. Procedural Background- Planning Department Involvement

On September 18, 2025, the City of Portsmouth's Planning Department (the "Planning Department") conducted a preliminary conceptual review of the Applicant's proposed redevelopment of the Subject Property.[7] The original plans submitted to the Planning Department in this process proposed to keep the drive-through lanes in place, which would run them through the middle of the proposed new building.

During the conceptual review, the Planning Department determined that the Applicant should instead move the teller window over to the other side (the south facing side) of the proposed new building and to relocate the teller lanes to the south side of the property, which the Planning Department determined would produce a better design for the building and which would eliminate the curb cut on Pleasant Street which is currently used to exit the drive through.

Following this discussion, the Applicant modified its plans and now proposes to shift the existing teller lanes and teller window to the south side of the newly redeveloped building and eliminate the curb cut. The proposed shift of the teller lanes reduce the size and impacts of the existing non-conforming, grandfathered use of the drive-through teller lanes and windows at the

[5] See Id.
[6] See Id. at 26, see also City of Portsmouth Zoning Ordinance, Sections 10.835.20-10.835.30.
[7] See City of Portsmouth Planning Board Action Sheet, Exhibit D at 5.

Subject Property.[8] The square footage of the Subject Property devoted to the drive-through lanes and teller windows will be materially reduced as a result of this redevelopment.[9]

Following its review the Planning Department stated in the Meeting Materials:

> The bank has two-existing drive-through teller lanes that are proposed to be moved to the south side of the newly developed building. Due to the changes to the site and the existing nonconforming use, the applicant is seeking relief from Table 10.440, Use #19.40 to permit a drive-through facility as an accessory to a permitted principal use."[10]

The Planning Department accordingly recognized the existing, non-conforming use for the two (2) drive-through lanes, but believed that the relocation was a "change" to the use and that a variance would be required.[11] To that end, the Planning Department stated that:

> If the Board decides to grant approval of the requested variance, staff recommends the following condition for consideration:
>
> 1. The design and location of the buildings may change as a result of the Planning Board review and approval.[12]

No other conditions or limitations were recommended by the Planning Board should the ZBA grant the application.

c. Application and Hearing

On September 25, 2025, the Applicant filed an application for variance for the Subject Property for relocation of the existing drive-through accessory uses for the bank teller window and two (2) lanes (the "Application").[13] The Application sought a variance from Portsmouth Zoning Ordinance Section 10.331.[14] That section provides that a lawful, non-conforming use

[8] See Exhibit A at 33 and 38.
[9] See October 28, 2025 ZBA Public Hearing Transcript, Exhibit B at 33-34.
[10] See Exhibit A at 9.
[11] See Id.
[12] See Id.
[13] See Exhibit A at 25-47.
[14] See Id. at 26-27.

may continue, but may not be extended, enlarged or changed except in conformity with the Ordinance.

The Application provides the rationale for proposed development, relocation and reduction of the drive-through teller lanes for the mixed-use development pursuant to RSA 674:33, I (a)(2) and Section 10.233 of the Portsmouth Zoning Code.[15] The Application includes pertinent details concerning the proposed new building and teller drive-through lanes and explains that the Subject Property's current non-conforming uses will be improved by, among other things:

(i) removing an existing curb-cut and limiting and reducing vehicle access to and from Pleasant Street;

(ii) improving pedestrian access to the subject site by, among other things, reducing the setback between the proposed building and Pleasant Street to ten feet or less;

(iii) reducing the overall size of the existing, non-conforming drive-through teller lanes.[16]

The new building and drive-through lanes will be utilized by Kennebunk Saving Bank in the same character and use as they exist today once the building is redeveloped.[17]

On October 28, 2025, the ZBA conducted a public hearing at which time the Board considered the Application and accompanying meeting packet which included a summary of new business. It considered the Application to be requesting:

(i) a variance from Section 10.440, Use #19.40 for a drive-through facility as an accessory to a permitted principal use; and

[15] See Id. at 26-29.
[16] See Id. at 26-29.
[17] See Id. at 27.

(ii) a variance from Section 10.331 to change the location and use of the drive-through facility.[18]

During the public hearing, the ZBA Chairwoman Eldridge opened new business for consideration of the two variances and acknowledged the existing teller lanes as far back as 1982.[19] Attorney Francis X. Bruton presented on behalf of the Applicant. Attorney Bruton explained the uniqueness of the Subject Property given that Citizen's Bank is the current occupant and that it utilizes with two-existing teller lanes.[20] The Subject Property is unique because it contains over 1.22 acres in the downtown area and because it abuts the Parrott Street Parking lot, with no direct residential or commercial abutters other than parking on that side, which limits impacts from the proposed development.[21]

Attorney Bruton highlighted that the redevelopment of the building would move the setback from almost 100 feet from Pleasant Street to within 10 feet, which is the maximum setback required by the Ordinance in Character District 4.[22] He noted that granting the variance and allowing redevelopment of the site as proposed would activate the property for pedestrians by bringing it within 10 feet of the street and eliminating the curb cut for the existing drive-through.[23] The variance (and redevelopment) would also improve traffic and safety for pedestrians on Pleasant Street and creating a substantial benefit to the public.[24]

Attorney Bruton stated why the variance would not violate the spirit of the Ordinance. It would not threaten the essential character of the locality, or threaten public health and safety,

[18] See Exhibit A at 19, as noted above, the Applicant only sought one variance under Section 10.331.
[19] See Exhibit B at 2.
[20] See Id. at 4-5.
[21] See Id.
[22] See Id. at 5.
[23] See Id.
[24] See Id.

because the teller drive-through lanes have existed at the subject site for more than 43 years and the redevelopment would make the site safer for the public.[25]

Attorney Bruton explained why substantial justice requires approving the Application, because without the requested variance the Applicant would lose the use of the existing non-conforming uses for this unique 1.22 acre property in downtown (or suffer losses of commercial or retail leases).[26] He stated that the losses the Applicant would suffer substantially outweigh any negative impact to the public, which are all beneficial.[27]

Attorney Burton highlighted one of the many unique qualities of the Subject Property: there are no direct abutters on the Parrott Street parking lot side. The proposed relocation and elimination of the existing travel lane and curb-cut for the teller lanes would relocate any light or traffic from impacting residential abutters to impacting only the city's parking lot. Mr. Bruton explained that the purpose of the drive-through teller lanes was to provide access for the disabled, elderly, and parents with children who cannot leave their cars to access the banking services.[28]

ZBA Vice-Chair Margeson questioned Attorney Bruton on pedestrian traffic around the area because of the abutting Parrott Avenue parking lot owned by the City and raised concerns about pedestrians cutting through the Subject Property near the proposed, relocated teller lanes.[29] Attorney Bruton and John Chagnon of Haley Ward (also appearing and presenting on behalf of Applicant) addressed those concerns with site designs including a hedge and fencing to limit

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[25] See Id. at 6-7.
[26] Attorney Bruton specifically noted the aesthetic upgrades, adding residential uses, making the site more conforming to the CD zoning and values sought by the Ordinance, and relocation of existing parking to an underground parking garage to support improved parking. See Id. at 8.
[27] See Id. at 8.
[28] See Id. at 7-9.
[29] See Id. at 10.

pedestrians from cutting through Subject Property from the Parrott Street lot and adjoining properties to further address pedestrian safety concerns.[30]

Board Member Rheaume stated his belief that the purpose of eliminating drive-throughs in these districts is to make them more "pedestrian friendly."[31] In response, Mr. Chagnon demonstrated that pedestrians from Pleasant Street would access the building from the front of the building, through the underground garage, and finally through an easement access from the Portsmouth Fire Station condominiums to enhance the pedestrian experience.[32]

Board Member Nies asked about the relocation of the teller lanes that showed the original location and plans showing the lanes running through the middle of the building.[33] Mr. Chagnon noted that the planning board had the lanes in the same location to keep its existing location without change; however, the planning board decided it was better to move the window over to the other side and relocate the teller lanes which would produce a better design for the building and eliminate the curb cut on Pleasant Street.[34]

After public comments, Attorney Bruton reiterated that that requested variance seeks only to relocate an existing use, the drive-throughs.[35] The Applicant does not seek to create a new element to the area that doesn't already exist.[36] Attorney Bruton noted that eliminating the drive-through would deprive the Subject Property of a use that *reduces* stress on existing parking by requiring customers to park somewhere close to access the bank.[37] Those customers include elderly, disabled persons, and parents with children who would be either barred from using the

[30] See Id. at 12, 14.
[31] See Id. at 16.
[32] See Id. at 17.
[33] See Id. at 20.
[34] See Id. at 20-21.
[35] See Id. at 29.
[36] See Id.
[37] See Id.

property, as they currently are able to, or would otherwise be subject to the inconvenience of parking.[38] Allowing the variance is in line with the unique characteristics of the Subject Property, and it would improve access, result in a more conforming structure, and not eliminate an existing non-conforming use which would create an unnecessary hardship on the Owner.[39]

Board Member Mattson asked whether the net change in relocating the existing teller lanes would result in a net increase or decrease in asphalt dedicated to the drive-through, as opposed to parking.[40] In response, Mr. Chagnon stated that "the existing plan dedicates more real estate because the drive-through [than the proposed plan] because [the current exit area] comes off and all of this pavement here is needed to access it. So that's reduced now to a little loop out here…I think I can say quite clearly that there's less pavement dedicated to the drive through."[41]

Board Member Rheaume discussed the desire to eliminate the allowance of drive-throughs in CD4 and CD5 to move downtown core areas away from car-centric way of life in favor of more pedestrian and other modes of transportation.[42] However, Board Member Rheaume acknowledged that some people have mobility issues which must be accommodated.[43] He further stated that he agrees with the Applicant's argument as to the uniqueness of the property given the abutting city parking lot that won't be developed and the fact that the drive-through could be re-created at the site distinguishes the Subject Property from others in the CD4 and CD5 districts.[44]

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[38] See Id. at 30-31.
[39] See Id.
[40] See Id. at 33, 34.
[41] See Id. at 34.
[42] See Id. at 40.
[43] See Id. at 41.
[44] See Id.

Board Member Rheaume then focused on parking issues and how pedestrians and residents will access through the new building's stairwells, alleyway and underground parking garage to argue that the drive-through in some way cuts pedestrian access to the building from Pleasant Street.[45] He later stated that he agrees with Board Member Nies that parking issues are not within the purview of the ZBA, as the planning board "has taken that away from us."[46]

In response to the Board Members' concerns regarding pedestrian access, Mr. Chagnon showed how the plans could (and in some cases already do) address concerns respecting pedestrian access, including by connecting walkways and adding sidewalks.[47] Mr. Chagnon correctly noted that pedestrian access for the planned redevelopment would be easier and more efficient than exists in the Subject Property's current use.[48]

Vice-Chair Margeson recognized the existing drive-through on the property, despite the intention in the Ordinance to take away drive-throughs but also expressed concerns regarding making the site more pedestrian friendly.[49] She acknowledged that parking and traffic circulation is an issue for the Planning Department, and not for the ZBA.[50]

Board Member Mattson moved to approve the variance on the basis that this is a multi-modal character district, the development would bring the properties use within the maximum ten-foot setback for the pedestrian experience and would move the drive-through away from Pleasant Street.[51] He stated that the "curb appeal from Pleasant Street is actually improved with the situation." Finally, he noted that if the drive-through was a permitted use in this district, all

[45] See Id. at 41-42.
[46] See Id.
[47] See Id. at 47.
[48] See Id.
[49] See Id. at 49.
[50] See Id.
[51] See Id. at 51-52.

the criteria for such use would be met by the drive through lanes proposed in this plan.[52] This is a reference to Ordinance Section 10.835 controlling performance requirements and setbacks for accessory drive-through uses.[53] Board Member Mattson's motion was not carried.

Finally, the Board voted on a motion by Board Member Mannle to deny the variance who cited the following factors:

(i) granting the variance would be against public interest because "we want to get rid of drive-throughs in the downtown," and

(ii) the variance would not observe the spirit of the Ordinance based upon comments from Mr. Rheaume and Ms. Margeson, while acknowledging it was likely existing for more than 35 years; and

(iii) he didn't believe the presentation or application addressed hardship because no one talked about why the drive-through needed to be moved.[54]

Board Member Rheaume added that he felt the variance did not meet the first two criteria required for the ordinance, which are the requirements that granting the variance would not be contrary to the public interest and that the spirt of the Ordinance be observed.[55] He argued that these criteria are not met because the previously allowed use is no longer permitted due to the current zoning moving away from car-centric uses and would amount to a violation of the characteristics of the neighborhood.[56] He stated it was not in keeping with the spirit of the ordinance for the future desire make things pedestrian focused, and he feels that the existing

[52] See Id.
[53] See Id. at 53.
[54] See Id. at 53-55.
[55] See Id. at 55-56.
[56] See Id.

ATM drive-through is preventing a fully pedestrian oriented use.[57] The ZBA then voted 5-1 to deny the application.[58]

On October 30, 2025, the ZBA issued a written decision containing findings for why the variances were denied.[59] Specifically, the ZBA found the following:

1. Granting the Variance would be contrary to the public interest (10.233.21) because:
    a. The proposed drive-through cuts the pedestrian flow on the property.
    b. The proposed drive-through segregates the pedestrian experience and creates an island for the back of the property.
2. Granting the Variance would be not observe the spirit of the Ordinance (10.2233.22) because:
    a. The ordinance's intent is to eliminate the allowance for drive-throughs in the CD4 and CD5 zones in a desire to move the downtown core areas more toward pedestrian use and other types of transportation.
    b. Continuing the drive-through use that is no longer allowed in the area is in violation of the neighborhood as well as the spirit of the ordinance.[60]

The ZBA's denial decision did not list any written findings as to the three (3) remaining factors required to grant a variance related: 1) doing substantial justice (10.233.23); 2) granting the variance would not diminish values of surrounding properties (10.233.24); or 3) literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship (10.233.25).[61]

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[57] See Id. at 56.
[58] See Id. at 57.
[59] See Exhibit C, Findings of Fact – Zoning Board of Adjustment, LU-25-138.
[60] See Exhibit C at 1.
[61] See Id. at 2.

III. LEGAL STANDARD FOR REHEARING

Within thirty (30) days after a decision of the ZBA, any party to the action may apply for rehearing in respect to any matter determined in the action by specifying in the motion for rehearing the grounds therefore. *See* RSA 677:2. The ZBA may grant such rehearing if, in its opinion, good reason therefore is stated in the motion. *Id.*

A motion for rehearing made under RSA 677:2 should set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. *See* RSA 677:3. The New Hampshire Supreme Court has ruled that the rehearing process is designed to afford a zoning board of adjustment an opportunity to correct its own mistakes or to consider new evidence. *Fisher v. Town of Boscawen*, 121 NH 431 (1981).

IV. ARGUMENTS AND CLAIMS OF ERROR

The ZBA's denial of the Applicant's variance request was unlawful and unreasonable. The ZBA's findings are not consistent with the valid interpretation of the public interest or the spirit of the Ordinance. The proposed development, including relocation of the two existing drive-through lanes and window results in a reduction of an existing, non-conforming use that will improve public safety and provide public benefits while bringing the lot and uses at the Subject Property more in conformance with the Ordinance and intent of the Character District 4 requirements adopted after 2015.

The Applicant's variance application and testimony at the public hearing demonstrated that the Application satisfied the three (3) other criteria supporting approval of a variance including substantial justice, no diminution of value of surrounding properties, and literal enforcement of the Character District restriction upon this unique site would cause unnecessary hardship on the Owner.

In the alternative, the relocation of the use proposed by Applicant does not require a variance. An existing, non-conforming use may continue unless it is expanded or the nature or character of the use is changed. The relocation, as requested by the Planning Board to address matters within their purview, including improving traffic flow and pedestrian access, does not expand or change the nature of the use. Instead, the use will be reduced, as demonstrated in the testimony at the hearing and on the Existing Conditions Plan and Permit Plans. Accordingly, the requested relocation is reasonable and permitted by law and does not require a variance from the ZBA.

a. The ZBA's Denial of the Variance on the Grounds that the Variance is Contrary to Public Interest is Unreasonable, Unlawful, and Based on Technical Error.

The ZBA should reverse its decision on rehearing because its findings that the drive-through cuts through pedestrian flow from Pleasant Street and segregates the pedestrian experience are unreasonable and unsupported by the evidence. Instead, the evidence demonstrates, and it is indeed uncontroverted that, the proposed relocation of the drive-throughs and redevelopment of the property is not contrary to public interest.

A variance is contrary to the public interest only where it unduly and in a marked degree conflicts with the basic zoning objectives of the ordinance to "alter the essential character of the locality and threaten public health, safety or welfare." See *Chester Rod & Gun Club v. Town of Chester*, 152 NH 577, 581, 883 A.2d 1034 (2005). There is no evidence in the record created by the Application and public hearing that tends to show that the character of the locality will be altered or that public health, safety or welfare will be threatened if the variance is approved. The ZBA cites disruption of pedestrian traffic as grounds for its decision on this criterion. But there is no explanation as to how this disruption (which isn't a disruption, particularly in view of the

current use of the property)[62] in any way alters the current character of the locality or threatens public health, safety or welfare.

The drive-through lanes have existed on the site for more than 43 years.[63] Maintaining a use that has existed for that long and exists in many other locations throughout the CD4 and CD5 districts, cannot reasonably be argued to alter the character of the locality. Instead, the proposed relocation and associate development will remove a curb cut and reduce interactions between vehicles and pedestrians on Pleasant Street. It will move the building closer to Pleasant Street and activate pedestrian access and bring the Subject Property in further compliance with the spirit of the Character District zoning. This is particularly true where while not allowed in CD4 drive-through lanes are permitted in the substantially similar Character District CD4W[64] and in the downtown area in Portsmouth.[65]

The relocation of the existing use imposes no threat to public health and safety because the redevelopment would make the site safer for the public.[66] The redevelopment will encourage pedestrian access to the new building from Pleasant Street and remove any interaction with vehicles that pedestrians on Pleasant Street currently encounter when accessing the building. Removing the drive-through lane will remove a use that reduces stress on existing parking and encourages safety, as the removal would require elderly, disabled, and parents with children to park their cars and access the bank on foot which creates opportunities for more, not less, vehicle interaction with vulnerable pedestrians. This important factor was acknowledged by Board Member Rheaume.[67]

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[62] See Exhibit A at 32, 36.
[63] See Exhibit B at 6-7.
[64] See Zoning Ordinance, Table 10.440, #19.40, see also Figure 10.5A41.10B.
[65] See Zoning Ordinance, Table 10.440, #19.40.
[66] See Exhibit B at 6-7.
[67] See Exhibit B at 41.

The overall impact of the proposed redevelopment which the Planning Department determined necessitated this variance will make the site more pedestrian friendly in keeping with the Character District and will improve public safety and welfare.

The written findings of the ZBA were technical errors in considering pedestrian flow as contrary to public interest rather than an overall reduction in an existing non-conforming use that reduces traffic and safety concerns on Pleasant Street, while activating the site for pedestrian friendly use. Those findings are not in the purview of the ZBA, and certainly not when considering whether the variance would be contrary to the public interest. Particularly in this case, where the Planning Board requested the Applicant to relocate the existing drive-through lanes and teller window to improve traffic, pedestrian access and the overall design of the project, it is absurd to deny the variance based on traffic and pedestrian flow concerns.

Rehearing is proper where the affected party can show technical error or produce new evidence that was not available at the time of the first hearing. See *Loughlin*, *15 New Hampshire Practice, Land Use Planning and Zoning*, Section 21.08 (4th Ed. 2010). Here, the findings of fact on the first qualification for granting a variance pursuant to 10.233.21 were technical errors by the ZBA.[68] As specifically noted at the hearing, the thinly-veiled goal of the ZBA's denial of the requested variance is to "get rid of drive throughs in the downtown."[69] Stated another way, the ZBA's purpose in this matter is to deny a reasonable and more conforming change in the location of the drive-through, while their intent, poorly concealed and clearly admitted, is to use this application for a stated goal that is illegal. The drive-through use on the Subject Property is an existing nonconforming use that is protected by state law. *See* RSA 674:19 (zoning ordinance "shall not apply to existing structures or to the existing use of any building. It shall apply to any

[68] See Exhibit C at 2, Exhibit B at 53-55.
[69] See Exhibit B at 54.

alteration of a building for use for a purpose or in a manner which is substantially different from the use to which it was put before alteration"); RSA 674:39 (after completion of improvements as shown in approved site plan "the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in . . . zoning ordinances . . . shall operate to affect such improvements."); N.H. Const., Pt. I, art. 2nd and 12th; U.S. Const. amend. V ("nor shall private property be taken for public use, without just compensation.").

Accordingly, the ZBA decision and findings of fact were unreasonable and unlawful, and the motion for rehearing should be granted and the findings that the variance would not be in public interest should be reconsidered and reversed.

b. The ZBA's Denial of the Variance on the Grounds that the Variance is Contrary to the Spirit of the Ordinance is Unreasonable, Unlawful, and Based on Technical Error.

For the same reasons discussed above, the ZBA should reverse its decision on rehearing because its findings that the proposed development somehow frustrates pedestrian use and violates the characteristics of the neighborhood are unreasonable, unsupported by the evidence, and unlawful.

Determining whether a requested variance complies with the spirit of the ordinance is substantially similar to whether it comports with public interest. *See Harborside Associates, L.P. v. Parade Resident Hotel, LLC*, 162 NH 508, 514 (2011). As stated above, the public will benefit, and not be harmed, by the allowance of this variance to simply relocate the existing, non-conforming use in a way that does not expand that use but reduces it, makes it safer for pedestrians, and activates the site for pedestrian use. The proposed redevelopment promotes and

enhances public welfare and safety and satisfies the spirit of the ordinance to promote mixed-use developments in the Character District.[70]

The ZBA's decision was unreasonable and unlawful and was made in technical error given the considerations and reasoning driving their decision. The purpose of the Character District is to promote the development of walkable, mixed-use, human-scaled places by providing standards for building form and placement and related elements of development. *See* Ordinance Section 10.410. The variance and proposed redevelopment promote, and certainly do not frustrate, that purpose for all the reasons raised in the Application, addressed at the hearing, and discussed in this motion for rehearing,

It should also be noted that Character District 4-W for the West End specifically allows for drive-throughs as conditional uses under Section 10.440, Use #19.40; therefore, the intent of the re-zoning is not to eliminate all drive-throughs in the Character District as noted by a number of Board Members during the public hearing and in its written findings. The Board, Application, Meeting Material Packet and Zoning Ordinance do recognize the existing, non-conforming uses at the site for the two drive-through lands and teller window.[71] The overall redevelopment of the site, as laid out above, will activate the site by reducing the 100 foot setback from Pleasant Street to 10 feet, the maximum allowed in the CD4 district, make the site more pedestrian friendly, continue to provide necessary mobility access for those customers that are elderly or disabled or with young children, eliminate a curb-cut and reduce vehicle and pedestrian interactions on Pleasant Street. It will enhance all public benefits which the Character District zoning was intended to address. The ZBA's decision on this criterion should be reheard and reconsidered.

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[70] See Zoning Ordinance, Section 10.410, "To promote the development of walkable, **mixed-use**, human-scaled places by providing standards for building form and **placement** and related elements of development." (**emphasis** added)

[71] See Exhibit A at 9, 26, Exhibit B at 2, 33-34, Exhibit C at 1.

c. The Applicant Demonstrated that Granting the Variance Would Do Substantial Justice.

The standard by which "substantial justice" is judged is "that any loss to the individual that is not outweighed by a gain to the general public is an injustice." *See Malachy Glen Associates v. Town of Chester*, 155 N.H. 102, 109 (2002).

The variance requested would result in a mere continuation, and improvement of, the present use of the Subject Property. Denying the variance results in a loss of that use in connection with any redevelopment of the Subject Property, as directed by the Planning Department. A discontinuance of that use will cause substantial loss to the Owner that outweighs any benefit that denial of the variance will confer on the general public.

The loss of the existing use is a massive detriment to the Owner. The Owner's proposed long-term lease with a financial institution requires the continued use of the drive-through lanes at the Subject Property. That lease is the basis for justifying the redevelopment of the mixed-use site. Accordingly, loss of the existing use through denial of the variance will result in a loss to the Owner of material financial support that will drive the redevelopment.

Against that loss, the general public gains nothing from denial of the variance. The variance would result in eliminating an existing use which is less safe and more burdensome on pedestrians and traffic than would exist if the variance was approved. The public will lose out on the redevelopment of a unique 1.22 acre downtown site which would make it more conforming with the Character District requirements, promote residential and commercial uses, and make the existing, non-conforming uses less impactful. The denial of the variance harms the Owner and the general public in and true lose-lose scenario.

As noted in the public hearing testimony and Application, the relocated drive-through would meet the performance and setback standards in Sections 10.835.20 and Section 10.835.30

which are similarly permitted in CD4-W.[72] Denial of the variance by the ZBA created a substantial injustice for the Applicant and the loss of that use is not outweighed by gains to the public.

d. The Applicant Demonstrated that Granting the Variance Would not Diminish Values of Surrounding Properties.

The Applicant averred through its Application and presentation at the public hearing that the redevelopment of the site, including the granted variance to relocate the existing uses, would reduce traffic flow, improve activation of the site to Pleasant Street, promote mixed-use residential and commercial development, result in site improvements, reduce vehicular and pedestrian interactions on Pleasant Street by removal of the curb-cut, continue to provide access to banking services for customers with mobility issues, and result in additional site improvements such as hedges, sidewalks, landscaping and improvements to improve the site access in the area and not impact abutting property values.[73] Relocating the teller drive-through lanes would also reduce potential light exposure from vehicles entering from Pleasant Street at the existing curb cut, and there are no abutters on the south side proposed to be impacted by the relocation, as the City's Parrott Street Parking lot abuts that side.[74]

No expert testimony or other evidence was presented during the public hearing as to how the continuation of the existing, non-conforming use in a reduced and safer manner would be detrimental to any abutting properties. Therefore, granting the variance would not dimmish values of surrounding properties but likely improve those values.

[72] See Exhibit A at 28, Exhibit B at 51-53.
[73] See Exhibit A at 28, Exhibit B at 8.
[74] See Exhibit A at 26.

e. The Applicant Demonstrated that Literal Enforcement of the Provisions of the Ordinance Would result in an Unnecessary Hardship.

The ZBA's failure to grant the variance for the Subject Property and its literal enforcement of the provisions of the Ordinance for the CD4 would result in an unnecessary hardship for the Owner. The City's Ordinance criteria for defining an "unnecessary hardship" mirrors the standard established by the NH Supreme Court.[75] To establish "unnecessary hardship," an applicant for a variance must show that: (1) a zoning restriction applied to the property interferes with the applicant's "reasonable use of the property, considering the unique setting of the property in its environment"; (2) "no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property"; and (3) "the variance would not injure the public or private rights of others." *See Simplex Technologies v. Town of Newington*, 145 N.H. 727, 731-732 (2001). Put simply, the standard requires that the applicant seeks a variance that is "reasonable" considering the property's unique setting in its environment. See *Rancourt v. City of Manchester*, 149 N.H. 51, 53-54, (2003).

As stated above, the property is unique given the 1.22 acre size in the downtown area, current set-back from Pleasant Street, location abutting the Parrott Street parking lot which will not be developed by the City, and existing, non-conforming use of the teller drive-through lanes and window at the Subject Property. The use of the teller drive-through and window at the Subject Property has continued for approximately 43 years and a relocation of that use which reduces the size, scope, and likely impacts of that use is a reasonable one. The unnecessary hardship test is accordingly met in this case.

[75] See Sections 10.233.30 – 10.233.32.

During the public hearing, Board Member Rheaume acknowledged that some people have mobility issues which the drive-through lanes would accommodate, and stated that he agreed with the Applicant's argument that one of the unique characteristics of the Subject Property is that it abuts the city parking lot and that won't be developed and that the site is different from other properties in CD4 and CD5 so the drive-through use could be something recreated at this site. [76] These statements establish the unique setting of the Subject Property with respect to its location within Portsmouth and the CD4 district and demonstrate how the hardship test is satisfied.

Denial of the variance and elimination of the existing non-conforming use and teller drive-through lanes would limit the Owner's existing use, ability to market and develop the Subject Property, and prevent future improvements to the site through its redevelopment that results in an undue hardship.

f. Since Relocation of the Existing, Non-Conforming Use Reduces that Use and Does not Expand or Change the Character or Nature of the Use, no Variance is Required.

The Applicant argues in the alternative that the Board should grant rehearing and determine that no variance is necessary because the proposed project will result in a reduction of an existing, non-conforming use that relocation will not change the character or nature of the use. The ZBA specifically acknowledged that the teller drive-through lanes and window at the Subject Property are pre-existing non-conforming uses.[77] Mr. Chagnon specifically confirmed for Board Member Mattson that the relocated drive-through lanes would result in a reduction of area and paved surfaces than currently dedicated to the use.[78]

[76] See Exhibit B at 40-41.
[77] See Exhibit B at 2.
[78] See Id. at 34.

The Ordinance itself recognizes that an existing non-conforming use can be utilized on a site so long as it is not expanded, modified or changed. See Zoning Ordinance, Section 10.331. Here the proposed redevelopment of the site will allow for a ten-foot setback from Pleasant Street, activate pedestrian friendly uses, remove a vehicular access and curb-cut for the existing teller drive-through lane. It will thereby reduce interactions between pedestrians and vehicles on Pleasant Street, allow for continued access to bank services by elderly, disabled, and parents with children, reduce parking and further pedestrian issues at the site, bring the site more into conformance with the Character District, and have less impact on adjacent properties.

A nonconforming use right is a vested right and is protected under our statutes, previous case law, and the State Constitution. *See New London Land Use Ass'n v. New London Zoning Board of Appeals*, 130 NH 510, 519 (1988), *see also* N.H. CONST. pt. I, arts. 2 and 12; *Town of Hampton v. Brust,* 122 N.H. 463, 468 (1982); RSA 674:19. The limitation on nonconforming use rights provides that so long as someone does not substantially change the nature and purpose of the use, they may continue to enjoy that use. See *New London Land Use Ass'n*, 130 NH at 519. Given the 43 year use at the site, this use and proposed change would be reasonable given the lower impact and reduced non-conforming use associated with redevelopment of the site.

The Applicant has a vested right and relocation of the nonconforming use from the existing location to the southern portion of the Subject Property. Since the use will not change the nature or purpose of the use, it is permitted without the need for a variance. The relocation, resulting in a reduction and not expansion of that use, does not constitute a "change" within the meaning of 10.331 and therefore the ZBA should find that no variance is necessary to relocate the existing teller drive-through lanes and window with the redevelopment of the property

V. CONCLUSION

For the reasons stated above, the Applicant respectfully requests that the City of Portsmouth Zoning Board of Adjustment grant this motion for rehearing and allow the variance for 134 Pleasant Street.

Respectfully submitted,
DOUBLE MC, LLC

By its Attorneys,

RATH, YOUNG AND PIGNATELLI, P.C.

Dated: November 26, 2025

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REGULAR MEETING
BOARD OF ADJUSTMENT
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

Members of the public also have the option to join the meeting over Zoom
*(See below for more details)**

7:00 P.M. **October 28, 2025**

AGENDA

I. OLD BUSINESS

A. The request of **Charlie Neal and Joe McCarthy (Owners)**, for property located at **28 Whidden Street** whereas relief is needed to construct an addition to the rear of the structure which requires the following: 1) Variance from Section 10.521 to allow a) 42% building coverage where 30% is allowed, b) 11 foot rear yard where 25 feet are required; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 102 Lot 64 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-127)

II. NEW BUSINESS

A. The request of **Double Mc LLC (Owner),** for property located at **134 Pleasant Street** whereas relief is needed for redevelopment of the existing commercial building and construction of horizontal and vertical building expansions for a mixed-use building with below-grade parking and the relocation of drive-through teller lanes, which requires the following: 1) Variance from Section 10.440, Use #19.40 for a drive-through facility as an accessory to a permitted principle use; and 2) Variance from Section 10.331 to change the location and use of the drive-through facility. Said property is located on Assessor Map 116 Lot 30 and lies within the Character District 4 (CD4) and Historic District. (LU-25-138)

B. The request of **Tyler Garzo (Owner),** for property located at **62 McKinley Road** whereas relief is needed to construct a detached accessory dwelling unit which requires the following: 1) Variance from Section 10.1114.31 to allow a second driveway where

only one is permitted. Said property is located on Assessor Map 268 Lot 26 and lies within the Single Residence B (SRB) District. (LU-25-136)

C. The request of **ZJBV Properties LLC (Owner)** and **Jason Michalak (Applicant),** for property located at **180 Islington Street** whereas relief is needed to establish a personal service use for a tattoo studio which requires the following: 1) Special Exception from Section 10.440 Use #7.20 to allow a personal service use. Said property is located on Assessor Map 137 Lot 19 and lies within the Character District 4-L2 (CD4-L2) and Historic District. (LU-25-137)

D. The request of **Christopher J and Rachel A Delisle (Owners),** for property located at **250 McKinley Road** whereas relief is needed to construct a second story addition to the primary structure which requires the following: 1) Variance from Section 10.521 to allow a) 23 foot front yard where 30 feet are required, b) 0 foot right side yard where 10 feet is required; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 250 Lot 117 and lies within the Single Residence B (SRB) District. (LU-25-139)

E. The request of **Nuchow Hartzell Family Trust (Owner),** for property located at **204 Aldrich Road** whereas relief is needed to construct an addition and ramp to the primary structure which requires the following: 1) Variance from Section 10.521 to allow a) 3 foot right side yard where 10 feet is required, b) 7 foot left side yard where 10 feet is required, c) 31% building coverage where 20% is the maximum allowed; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 153 Lot 26 and lies within the Single Residence B (SRB) District. (LU-25-140)

F. The request of **Trenton and Denise Sensiba (Owners),** for property located at **0 and 12 Ruth Street** whereas relief is needed for a lot line adjustment which requires the following: 1) Variance from Section 10.521 for 20.66 feet of frontage on Map 143 Lot 16 where 100 feet is required. Said property is located on Assessor Map 143 Lots 16 and 9-1 and lies within the General Residence A (GRA) District. (LU-25-118)

II. ADJOURNMENT

**Members of the public also have the option to join this meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:*

https://us06web.zoom.us/webinar/register/WN_qS4lAGIST6qUA4Y2mR_GuA

City of Portsmouth
Planning Department
1 Junkins Ave, 3rd Floor
Portsmouth, NH
(603)610-7216

MEMORANDUM

TO: Zoning Board of Adjustment
FROM: Jillian Harris, Principal Planner
DATE: October 23, 2025
RE: Zoning Board of Adjustment October 28, 2025

The agenda items listed below can be found in the following analysis prepared by City Staff:

I. Old Business

A. 28 Whidden Street

II. New Business

A. 134 Pleasant Street

B. 62 McKinley Road

C. 180 Islington Street

D. 250 McKinley Road

E. 204 Aldrich Road

F. 0 – 12 Ruth Street

I. OLD BUSINESS

A. The request of **Charlie Neal and Joe McCarthy (Owners),** for property located at **28 Whidden Street** whereas relief is needed to construct an addition to the rear of the structure which requires the following: 1) Variance from Section 10.521 to allow a) 42% building coverage where 30% is allowed, b) 11 foot rear yard where 25 feet are required; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 102 Lot 64 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-127)

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single-family	*Construct addition at rear of structure	Mixed-Use	
Lot area (sq. ft.):	2,613.6	2,613	5,000	min.
Front Yard (ft.):	0	0	5	min.
Left Yard (ft.):	15	23 feet to addition	10	min.
Right Yard (ft.):	8	15’11” to addition	10	min.
Rear Yard (ft.):	16	11	25	min.
Building Height (ft.):	<35	<35	35	max.
Building Coverage (%):	37.7	42	30	max.
Open Space Coverage (%):	36	33	25	min.
Parking	2	2	2	
Estimated Age of Structure:	1780	Variance request(s) shown in red.		

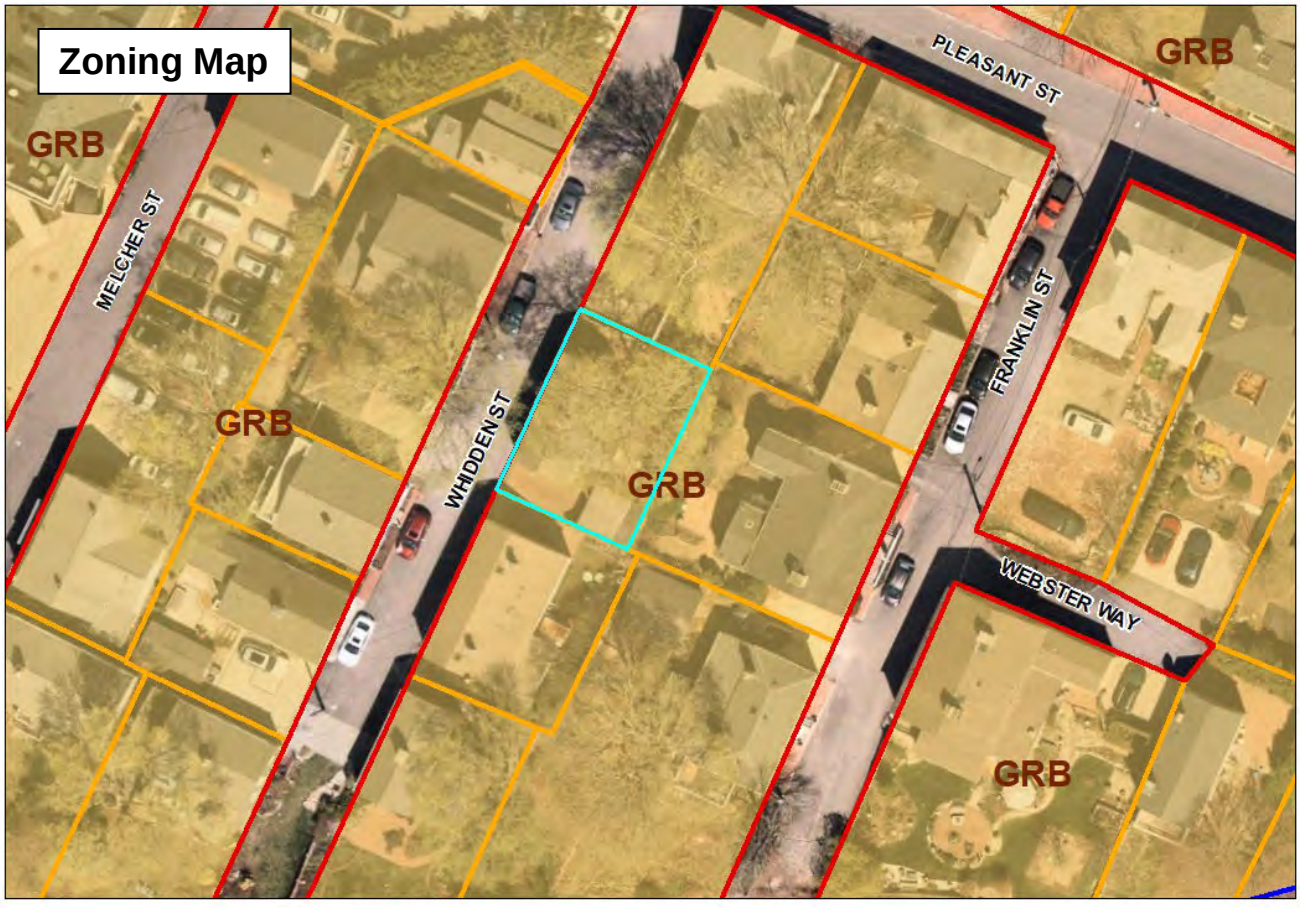
*Relief needed to construct an addition to the already non-conforming primary structure that would further impact the non-conformity.

Other Permits/Approvals Required

- Building Permit
- Historic District Commission

Neighborhood Context





Previous Board of Adjustment Actions

- **December 16, 1986 –** The Board **granted** a Variance from Article III, Section 10-302 is requested to allow the construction of a 68.5 s.f. rear addition with the following: a) a 17' rear yard where a rear yard of 25' is required; and b) building coverage of 37.8% where a maximum building coverage of 20% is allowed.

- **October 21, 2025 –** The Board voted to postpone the applicants request to the October 28, 2025 meeting.

Planning Department Comments

The applicant is requesting relief to construct a 105 square foot addition to rear side of the structure.

Variance Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a) The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR
   Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

Portsmouth, NH - Board of Adjustment
Variance Statement for: 28 Whidden

Date: 10.01.25

Chairman of the Board of Adjustment
C/O Planning Department City of Portsmouth
1 Junkins Ave.
Portsmouth, NH 03801

To The Chairman of the Board of Adjustment,

Please find this statement addressing the requirements for a variance on the proposed project located at 28 Whidden Rd, Portsmouth, NH.

Overview: The existing single-family home located in the Historic District of Portsmouth, NH we are proposing an addition of a “Mudroom Hallway” that functions as a mudroom and storage shed area. The home will remain single family.

We are requesting relief for lot coverage from 36% to 42% on a .06ac lot with this addition of 105sf where 30% is allowed.

Per Section 10.233.21 – The variance will not be contrary to public interest.
We do not see this proposal as contrary to public interest and is staying consistent to other additions / renovations in the neighborhood.

Per Section 10.233.22 - The spirit of the Ordinance will be observed.
This home currently has no transition area from exterior to interior. We are trying to create a space to enter from the side and back while still connecting it to a shed that will be used as a seasonal studio space.

Per Section 10.233.23 – Substantial Justice will be done.
We believe we are asking for a modest request of expanding the footprint of the addition by 105 square feet. We are already over lot coverage so there would be no way to expand the footprint without board approval. We believe that with the small amount of square footage we are requesting, it would significantly improve the function of this historic home.

Per Section 10.233.24 - The values of the surrounding properties will not be diminished.
The neighborhood is a lovely mix of historic homes, primarily colonials with additions. All neighbors will benefit from the financial investment that the homeowners are willing to invest in the property.

Per Section 10.233.25 – Literal enforcement of the provisions of the ordinance would result in hardship.

a. The non-conforming structure of the home has been a challenge and we worked hard to increase the current footprint by the minimal amount.
b. The house has had little, or no work done for several years and feels as if it is truly back in the 1780's. We are trying to improve the property to modern living standards by having a transitional space to come in out of weather before stepping directly into our kitchen. The front door has not functioned in many decades but also does not offer the transition relief that we are looking for.
c. Not receiving a variance for this project would be a hardship to the homeowners.

We encourage the Portsmouth Board of Adjustment to grant the variance to the Neal McCarthy Residence.

Submitted respectfully,

Amy Dutton
Amy Dutton Home
9 Walker Street
Kittery, Maine 03904
amy@amyduttonhome.com
207-337-2020

PHOTOS OF EXISTING PROPERTY:



FRONT VIEW with SHED



LEFT FRONT VIEW



REAR RIGHT VIEW



REAR LEFT VIEW with SHED







@AMY DUTTON HOME
DRAWINGS USED EXPRESSIVELY FOR DESIGN ONLY FOR NOTED CLIENT. ALL STRUCTURAL ENGINEERING PROVIDED BY OTHER.

Building contractor / home owner to review and verify all dimensions, specs and connections before construction begins.
PRIMARY:
- INTERNATIONAL RESIDENTIAL CODE (IRC 2021)

SECONDARY:
- ELECTRICAL CODE SYSTEM: NEC 2020
- MECHANICAL SYSTEM CODE: IMC 2021
- PLUMBING SYSTEM CODE: (IPC 2021)
- INTERNATIONAL ENERGY CONSERVATION CODE (IECC 2021)

LIVING AREA

MAIN FLOOR	747 sqft
UPPER STORY, FINISHED	595 sqft
ATTIC	149 sqft
TOTAL	1,491 sqftsqft
SHED	238 sqft

LIVING AREA

MAIN FLOOR	747 sqft
SHED CONNECTOR ADDITION	105 sqft
UPPER STORY, FINISHED	595 sqft
ATTIC	149 sqft
TOTAL	1,596 sqft
SHED	238 sqft

DIM DISCLAIMER

BUILDING CONTRACTOR/HOME OWNER TO REVIEW AND VERIFY ALL DIMENSIONS, SPECS, AND CONNECTIONS BEFORE CONSTRUCTION BEGINS.

OVERVIEW

SCALE: NTS

Layout Page Table

Label	Title
O-1	OVERVIEW
S-1	SITE PLAN
S-2	SITE PLAN
G-1	GENERAL NOTES
G-2	GENERAL NOTES
A-1	FIRST FLOOR
A-2	ELEVATIONS
A-3	ELEVATIONS
A-4	ROOFS
A-5	WINDOW SCHEDULE

AMY DUTTON
ARCHITECTURE & DESIGN

Revision Table

Number	Date	Revised By	Description

OVERVIEW

PROJECT:
NEAL MCCARTHY
28 Whidden, Portsmouth
NH 03801

CONTACT:
AMY DUTTON HOME
9 WALKER STREET
KITTERY, ME 04101
207.345.6050

DATE:
10/1/2025

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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
O-1

CALCULATIONS

ZONING MAXIMUMS: GRB
front setback: 5'
rear setback: 25'
side setbacks: 10'
lot coverage: 30%

EXISTING CONDITIONS:
LOT SIZE: 0.06 AC

FRONT/REAR HEIGHT:
26' 4" EXISTING RIDGE HT FROM FRONT GRADE

LIVABLE SF: **1,491 SF**
FIRST FLOOR 747 SF
UPPER STORY 595
ATTIC 149 SF
GROSS SF: **1,937 SF**
FIRST FLOOR 747 SF
UPPER STORY 595 SF
ATTIC 595 SF
OUTBUILDINGS
SHED 238 SF

AREA OF FOOTPRINT: **985 SF**
EXISTING SETBACKS:
FRONT: 0
REAR: 16.5'
LEFT: 15'
RIGHT: 8.1'
EXISTING LOT COVERAGE: **37.7 %**
EXISTING PARCEL AREA: 2,613.6 SF (0.06 AC)

PROPOSED CONDITIONS:

FRONT/REAR HEIGHT:
9'-5" PROPOSED RIDGE HT FROM FRONT GRADE

LIVABLE SF: **1,596 SF**
FIRST FLOOR 852 SF
UPPER STORY 595 SF
ATTIC 149 SF

GROSS SF: **2,042 SF**
FIRST FLOOR 852 SF
UPPER STORY 595 SF
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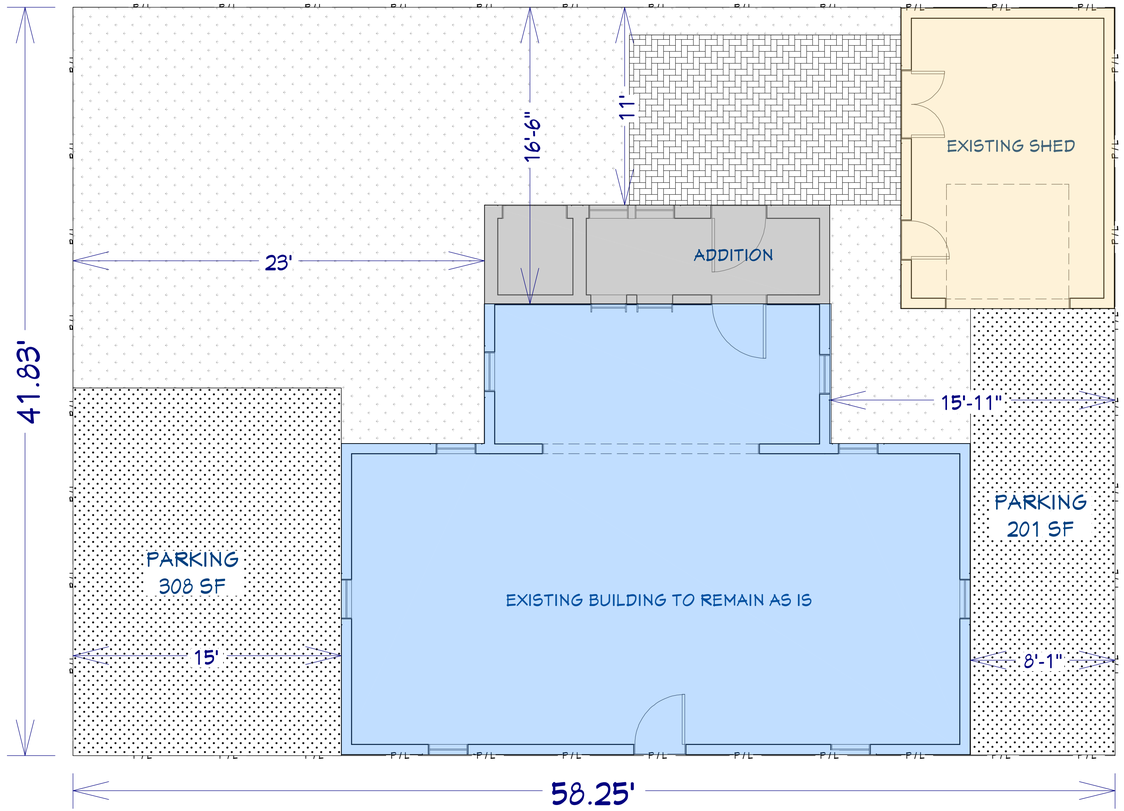
AREA OF FOOTPRINT: **1,090** SF
PROPOSED SETBACKS:
FRONT: 0
REAR: 11'
LEFT: 15'
RIGHT: 8.1'
PROPOSED LOT COVERAGE: **42%**
EXISTING PARCEL AREA: 2,613.6 SF (0.06 AC)

CAD BLOCK GUIDE

EXISTING FOOTPRINT (747 SQFT)

EXISTING SHED (238 SQFT)

PROPOSED ADDITION (105 SQFT)



= 144 SF PERMEABLE PAVERS OR GRAVEL

= 854 SF OPEN SPACE

= 509 SF TOTAL PARKING AREA

Z

28 Whidden St

INFORMATION SOURCE: PORTSMOUTH, NH MAP GEO

PROPOSED PLOT PLAN

SCALE: 1/4" = 1'-0"



SITE LOCATION



MAP VIEW



SITE PLAN



EXISTING CONDITION PHOTO

SITE PLAN

AMY DUTTON
ARCHITECTURE & DESIGN

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NH 03801

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KITTERY, ME 04101
207.345.6050

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24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
S-1

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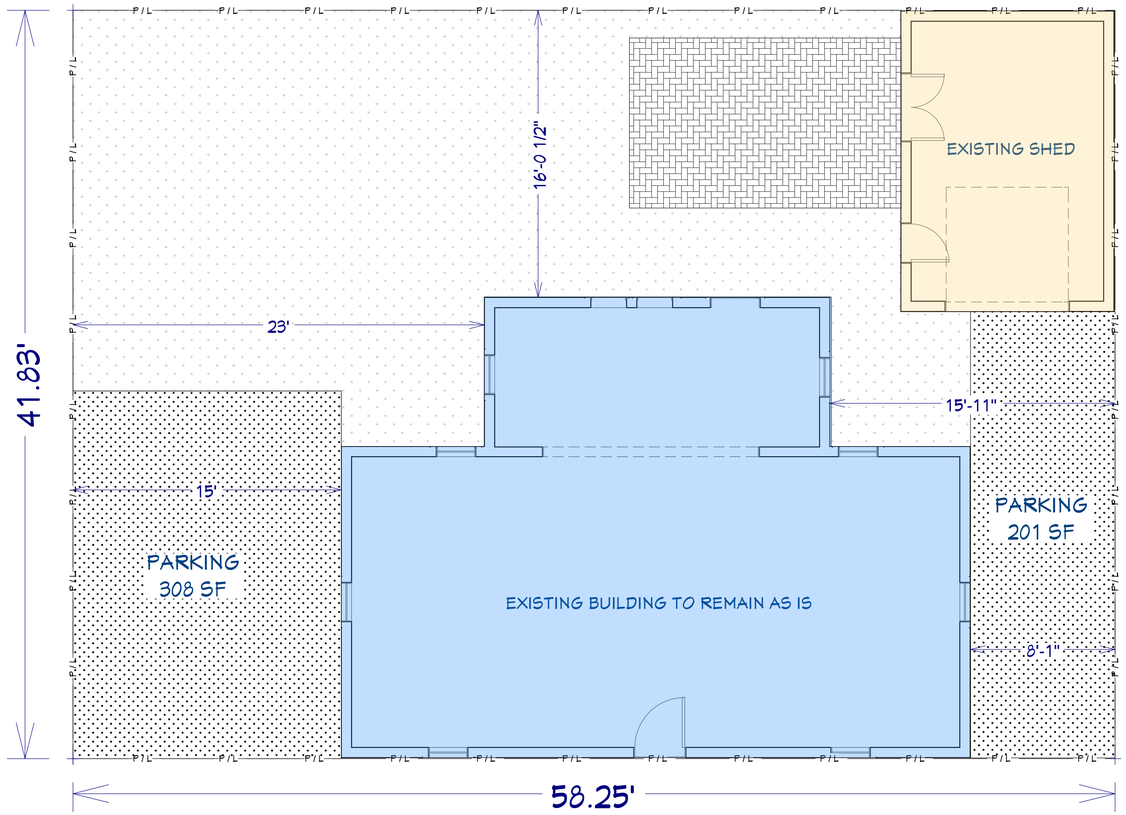
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= 950 SF OPEN SPACE

= 509 SF TOTAL PARKING AREA

N

28 Whidden St

INFORMATION SOURCE: PORTSMOUTH, NH MAP GEO

EXISTING PLOT PLAN

SCALE: 1/4" = 1'-0"



SITE LOCATION



MAP VIEW



SITE PLAN



EXISTING CONDITION PHOTO

SITE PLAN

AMY DUTTON
ARCHITECTURE & DESIGN

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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
S-2

BUILDER:

THE BUILDER SHALL VERIFY THAT SITE CONDITIONS ARE CONSISTENT WITH THESE PLANS BEFORE STARTING WORK. WORK NOT SPECIFICALLY DETAILED SHALL BE CONSTRUCTED TO THE SAME QUALITY AS SIMILAR WORK THAT IS DETAILED. ALL WORK SHALL BE DONE IN ACCORDANCE WITH INTERNATIONAL BUILDING CODES AND LOCAL CODES.

WRITTEN DIMENSIONS AND SPECIFIC NOTES SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS AND GENERAL NOTES. THE ENGINEER/DESIGNER SHALL BE CONSULTED FOR CLARIFICATION IF SITE CONDITIONS ARE ENCOUNTERED THAT ARE DIFFERENT THAN SHOWN, IF DISCREPANCIES ARE FOUND IN THE PLANS OR NOTES, OR IF A QUESTION ARISES OVER THE INTENT OF THE PLANS OR NOTES. CONTRACTOR SHALL VERIFY AND IS RESPONSIBLE FOR ALL DIMENSIONS (INCLUDING ROUGH OPENINGS).

SPECIFIC MANUFACTURES AND MODEL NUMBERS SHOWN ON THE PLANS ARE INDICATIONS OF QUALITY ONLY. THE OWNER/ BUILDER SHALL NOT BE PROHIBITED FROM SUBSTITUTING MATERIALS AND/OR APPLIANCES OF EQUAL QUALITY/ STRENGTHS FROM NON-SPECIFIED MANUFACTURERS.

THE OWNER/BUILDER MAY SUBSTITUTE MATERIALS PROVIDED THEY MEET CURRENT BUILDING CODE, AND ARE APPROVED FOR THAT SPECIFIC USE BY THE BUILDING OFFICIAL.

BUILDING SITE:

CERTIFICATIONS AND SPECIAL INSPECTIONS:
CHANGES: ALL CHANGES MUST BE APPROVED BY THE BUILDING DEPARTMENT PRIOR TO CONSTRUCTION.

DRAINABE NOTES:
REFER TO CIVIL ENGINEERING

UNDERGROUND UTILITIES:

INSPECTION IS REQUIRED PRIOR TO BACKFILL OF WATER, ELECTRIC, GAS AND SEWER LINES. OTHER DEPARTMENTS AND AGENCIES MAY HAVE ADDITIONAL INSPECTIONS; SEE PERMIT CARD FOR THOSE INSPECTION NUMBERS.

PROVIDE WARNING TAPE. BACKFILL MATERIAL TO BE FREE OF CONSTRUCTION MATERIAL, ROCKS AND DEBRIS. .

FOLLOW LOCAL CODE FOR MINIMUM BURIAL DEPTHS FOR UTILITIES AFTER THE SERVING UTILITY POINT OF CONNECTION.

GAS, WATER AND SANITARY LINES SHOULD BE UNDER THE APPROPRIATE TEST PRESSURE AT TIME OF INSPECTION.

STRUCTURAL NOTES:

SEE STRUCTURAL ENGINEERING PLANS FOR ALL STRUCTURAL SPECIFICATIONS.

KITCHEN:

(E3703.2, E3901.4 & E3902.6)
PROVIDE A MINIMUM OF TWO (2) 20-AMP CIRCUITS FOR THE KITCHEN COUNTER.
A RECEPTACLE OUTLET SHALL BE INSTALLED AT EACH COUNTER SPACE WIDER THAN 12 INCHES.
ALL RECEPTACLES INSTALLED TO SERVE THE COUNTERTOP SURFACE IN A KITCHEN TO BE PROTECTED BY GROUND-FAULT CIRCUIT INTERRUPTERS
KITCHEN COUNTER RECEPTACLES SHALL BE INSTALLED SO THAT NO POINT ALONG WALL LINE IS MORE THAN 24" MEASURED HORIZONTALLY FROM AN OUTLET MEASURED IN SUCH A MANNER THAT THERE WILL BE AN OUTLET FOR EVERY 4 LINEAR FEET OR FRACTION THEREOF OF COUNTER LENGTH. RECEPTACLES OUTLETS SHALL NOT BE INSTALLED IN A FACE-UP POSITION IN THE WORK SURFACES OR COUNTERTOPS. (E3902.7)

BATHROOMS:

AT LEAST ONE WALL RECEPTACLE OUTLET SHALL BE INSTALLED WITHIN 3' OF BASIN LOCATION. (E3901.6)
ALL OUTLETS LOCATED IN THE BATHROOM SHALL BE PROTECTED BY A GROUND-FAULT CIRCUIT INTERRUPTER. (E3902.1) 2013

GENERAL ITEMS:

GARAGE:

THE GARAGE SHALL BE SEPARATED FROM THE RESIDENCE AND ITS ATTIC AREA BY NOT LESS THAN FIRE-RATED 5/8-INCH GYPSUM BOARD APPLIED TO THE GARAGE SIDE.

GARAGES BENEATH HABITABLE ROOMS SHALL BE SEPARATED FROM ALL HABITABLE ROOMS ABOVE BY NOT LESS THAN 5/8-INCH TYPE X GYPSUM BOARD OR EQUIVALENT. WHERE THE SEPARATION IS A FLOOR-CEILING ASSEMBLY, THE STRUCTURE SUPPORTING THE SEPARATION SHALL ALSO BE PROTECTED BY NOT LESS THAN 1/2-INCH GYPSUM BOARD OR EQUIVALENT. (TABLE R302.6)

DOORS TO BE 1 3/8" SOLID CORE OR RATED 20 MIN. EQUIPPED WITH A SELF-CLOSING
DEVICE.

WOOD BURNING APPLIANCES:

WOOD STOVES AND FIREPLACES SHOWN ON PLANS MUST BE INSTALLED PRIOR TO FINAL INSPECTION PER THEIR INSTALLATION DIRECTIONS TO MEET WARRANTY REQUIREMENTS. THE AFFIDAVIT OF EMISSION STANDARDS IS TO BE ON SITE.

SPECIAL WALL COVERINGS:

ADHERED VENEERS AND ATTACHED STONE OVER WOOD WALLS MUST BE INSTALLED OVER A WATER-PROOF BARRIER.
ALSO FLASHING MUST BE INSTALLED AS REQUIRED BY R703.8 AND WEEP SCREED MUST BE INSTALLED AT THE BOTTOM OF THE WALL FINISH.

FRAMING - GENERAL:

INSTALL APPROVED FRAMING CLIPS AT EACH END OF ALL TRUSSES AND RAFTERS.
FLOOR JOIST BLOCKING IS REQUIRED AT ALL BEARING POINTS OR FOLLOW MANUFACTURED JOIST INSTALLATION INSTRUCTIONS.
BUILDINGS WITH COMBUSTIBLE CEILING OR ROOF CONSTRUCTION SHALL HAVE AN ATTIC ACCESS OPENING TO ATTIC AREAS THAT EXCEED 30 SQUARE FEET AND THAT HAVE A VERTICAL HEIGHT OF 30" OR MORE. THE ROUGH-FRAMED OPENING SHALL NOT BE LESS THAN 22" BY 30". THE ACCESS SHALL BE LOCATED IN A HALLWAY OR OTHER READILY ACCESSIBLE LOCATION. A MINIMUM HEIGHT OF 30" UNOBSTRUCTED HEADROOM SHALL BE PROVIDED IN THE ATTIC SPACE AT SOME POINT ABOVE THE ACCESS OPENING. (R807)
PROVIDE FOR PROPER ATTIC VENTILATION. (R806)
ATTIC ACCESS IN GARAGES SHOULD NOT COMPROMISE ANY REQUIRED FIRE SEPARATION. SEE IRC SECTION M1305.1.3 FOR ACCESS REQUIREMENTS WHERE MECHANICAL EQUIPMENT WILL BE LOCATED IN ATTICS.
FIRE-BLOCKING SHALL BE PROVIDED PER (R302.11).
CHANGE OF TRUSS MANUFACTURER MUST BE APPROVED PRIOR TO CONSTRUCTION.

PLYWOOD SHEATHING SHALL BE AS FOLLOWS:

ROOF SHEATHING SHALL BE 5/8" PLYWOOD OR OSB.
WALL SHEATHING SHALL BE 1/2" INT-APA RATED 32/16 OR 7/16" OSB.
FLOOR SHEATHING SHALL BE 3/4" T & G – OSB INT - APA – RATED

LIGHTING E3803.1

AT LEAST ONE (1) WALL SWITCH-CONTROLLED LIGHTING OUTLET SHALL BE INSTALLED IN EVERY HABITABLE ROOM, IN BATHROOMS, HALLWAYS, STAIRWAYS, BASEMENTS, ATTACHED GARAGE, AND AT OUTDOOR ENTRANCES. EXCEPTION: IN HABITABLE ROOMS, OTHER THAN KITCHENS AND BASEMENT, ONE OR MORE RECEPTACLES CONTROLLED BY A WALL SWITCH SHALL BE PERMITTED IN LIEU OF A LIGHTING OUTLET.
ALL INTERIOR AND EXTERIOR STAIRWAYS SHALL BE PROVIDED WITH A MEANS TO ILLUMINATE THE STAIRS, INCLUDING THE LANDINGS AND TREADS. INTERIOR STAIRWAYS SHALL BE PROVIDED WITH AN ARTIFICIAL LIGHT SOURCE LOCATED IN THE IMMEDIATE VICINITY OF EACH LANDING OF THE STAIRWAY. FOR INTERIOR STAIRS THE ARTIFICIAL LIGHT SOURCES SHALL BE CAPABLE OF ILLUMINATING TREADS AND LANDINGS TO LEVELS NOT LESS THAN 1 FOOT-CANDLE (11 LUX) MEASURED AT THE CENTER OF TREADS AND LANDINGS. EXTERIOR STAIRWAYS SHALL BE PROVIDED WITH AN ARTIFICIAL LIGHT SOURCE LOCATED IN THE IMMEDIATE VICINITY OF THE TOP LANDING OF THE STAIRWAY. EXTERIOR STAIRWAYS PROVIDING ACCESS TO A BASEMENT FROM THE OUTSIDE GRADE LEVEL SHALL BE PROVIDED WITH AN ARTIFICIAL LIGHT SOURCE LOCATED IN THE IMMEDIATE VICINITY OF THE BOTTOM LANDING OF THE STAIRWAY. SEE R303.7 FOR ALL REQUIREMENTS.

GENERAL FRAMING NOTES:

FLOOR:
PROVIDE DOUBLE JOISTS. UNDER ALL WALLS RUNNING PARALLEL TO JOISTS.
INSULATION:
PROVIDE POSITIVE VENTILATION AT EA. END OF EA. RAFTER SPACE AT VAULTED CEILING AREAS. PROVIDE FOR PROPER ATTIC VENTILATION. (R806)
FIRE BLOCKING:
PROVIDE FIRE BLOCKING, DRAFT STOPS AND FIRE STOPS AS PER (IBC-SEC. R502.12).
BRACKETS:
PROVIDE POSITIVE CONNECTIONS AT EACH END OF ALL POSTS AND COLUMNS TO RESIST LATERAL DISPLACEMENT.
ATTIC ACCESS - MAIN:
BUILDINGS WITH COMBUSTIBLE CEILING OR ROOF CONSTRUCTION SHALL HAVE AN ATTIC ACCESS OPENING TO ATTIC AREAS THAT EXCEED 30 SQUARE FEET AND THAT HAVE A VERTICAL HEIGHT OF 30" OR MORE. THE ROUGH-FRAMED OPENING SHALL NOT BE LESS THAN 22" BY 30". THE ACCESS SHALL BE LOCATED IN A HALLWAY OR OTHER READILY ACCESSIBLE LOCATION. A MINIMUM HEIGHT OF 30" UNOBSTRUCTED HEADROOM SHALL BE PROVIDED IN THE ATTIC SPACE AT SOME POINT ABOVE THE ACCESS OPENING. (R807)
ATTIC ACCESS - GARAGE:
ATTIC ACCESS IN GARAGES SHOULD NOT COMPROMISE ANY REQUIRED FIRE SEPARATION. SEE IRC SECTION M1305.1.3 FOR ACCESS REQUIREMENTS WHERE MECHANICAL EQUIPMENT WILL BE LOCATED IN ATTICS.
ICE SHIELD:
36" DOUBLE ROLE
ENGINEERED TRUSSES:
TRUSS MANUFACTURER MUST BE APPROVED PRIOR TO CONSTRUCTION

ROOF FRAMING / TRUSS NOTES:

TRUSS DRAWING IS FOR ILLUSTRATION ONLY. ALL TRUSSES SHALL BE INSTALLED & BRACED TO MANUFACTURERS DRAWINGS & SPECIFICATIONS.

ALL TRUSSES SHALL CARRY MANUFACTURERS STAMP.

ALL TRUSSES SHALL BE INSTALLED & BRACED TO MANUFACTURERS SPECIFICATIONS.

ALL TRUSSES WILL NOT BE FIELD ALTERED WITHOUT PRIOR BUILDING DEPT. APPROVAL OF ENGINEERING CALCULATIONS.

SCISSORS TRUSS CEILING PITCH CALCULATED BY MANUFACTURER

ALL TRUSSES SHALL HAVE DESIGN DETAILS & DRAWINGS ON SITE FOR FRAMING INSPECTION.

ALL CONNECTIONS OF RAFTERS, JACK, OR HIP TRUSSES TO MAIN GIRDER TO BE PROVIDED BY TRUSS MANUFACTURER.

DOORS:

ALL EXTERIOR DOORS ARE TO BE SOLID CORE WITH WEATHERSTRIPPING.
PROVIDE 1/2 IN. DEADBOLT LOCKS ON ALL EXTERIOR DOORS, AND LOCKING DEVICES ON ALL DOORS WITHIN 10 FT. (VERTICAL) OF GRADE.

PROVIDE PEEPHOLE 54-66 IN. ABOVE FIN. FLOOR ON EXTERIOR ENTRY DOORS

DOORS BETWEEN GARAGE AND LIVING AREA SHALL BE 1-3/4" TIGHT FITTING SOLID CORE DOORS WITH A RATING OF 60 MINUTES. DOOR SHALL BE SELF CLOSING WITH BOTTOM THRESHOLD AND DOOR SHOE WITH SMOKE SEAL

EXTERIOR EXIT DOORS WILL BE 36" MIN. NET CLEAR DOORWAY SHALL BE 32" MIN. DOOR SHALL BE OPEN-ABLE FROM INSIDE WITHOUT THE USE OF A KEY OR ANY SPECIAL KNOWLEDGE OR EFFORT. GLAZING IN DOORS SHALL BE DUAL PANE SAFETY GLASS WITH MIN. U-VALUE OF 0.60
GARAGE DOORS TO BE SECTIONAL, OVERHEAD DOORS

OPENINGS:

ALL PENETRATIONS OF THE BUILDING ENVELOPE SHALL BE SEALED WITH CAULK OR FOAM.

FOUNDATION:

CONCRETE STRENGTH:

*3,0000 PSI @ 28 DAY MINIMUM
* STEEL REINFORCING: GRADE 40MIN.
*MIN. LAP LENGTH: 40 BAR DIAMETERS
*1/8" PER FOOT SLOPE FROM BACK OF GARAGE TO DOORS

INFILTRATION:

ALL OPENINGS IN THE EXT. BLDG. ENVELOPE SHALL BE SEALED AGAINST AIR INFILTRATION. THE FOLLOWING AREAS MUST BE SEALED.
* JOINTS AROUND WINDOW AND DOOR FRAMES
* JOINTS BETWEEN WALL CAVITY AND WINDOW / DOOR FRAME.
* JOINTS BETWEEN WALL AND FOUNDATION
* JOINTS BETWEEN WALL AND ROOF
* JOINTS BETWEEN WALL PANELS
* UTILITY PENETRATIONS THROUGH EXTERIOR WALLS

INSULATION: PROVIDE PROPER UNDER-FLOOR VENTILATION. (R408.1)

FOUNDATION WALL: 8-10" CONT. FOUR
(2)#4 BAR HORIZONTA (TOP& BOTTOM)
(1) #6 BAR VERTIAL @ 48" OC
LAP CORNERS & SPLICES OF REBAR PER CODE
SECURE SILL TO FOUNDATION W/ 1/2"D. ANCHOR BOLTS THAT EXTEND 7" INTO CONCRETE
TIGHTEN W/ NUT & WASHER @ 6' OC & MAX 12" FROM CORNER
HEIGHT: 7'-10" HIGH (TYP. WHEN POSSIBLE)
FOOTING: 10-12" X 20-24"
(2) #4 HORIZONTAL (BOTTOM)
(1)#4 DOWEL BAR @ 48" OC
LALLY COLUMN PAD: 30"X 30" X 12"
(2) #4 EACH WAY (BOTTOM)

*MAINTAIN CONTINUOUS 4'-0" FROST DEPTH
* 1/2" CTR. ANCHOR BOLD @ 4'-0" OC - 3 EA. CORNER / 2 EA. JOINT)

PORCH FOUNDATION

* 12" CTR. CONCRETE FILLED SONOTUBE
(1) #6 BAR VERTICAL @ CTR
SPREAD FOOTINGS & ANCHOR BOLD
ELEVATED 4X4 OR 6X6 POST BASE
*POSTS UNDER DECK CAN BE SOLID 4X4 UP TO 48" IN HEIGHT, SOLID 6X6 PT FOR HIGHER DECKS.
*PRECAST BELL OR POURED FOOTINGS @ PORCH, 20" BASE TO FROST WITH 8" SONOTUBE

DECK + PORCH

*BOLT / SCREW CONNECTION : R502.2.2.1
*LATERAL CONNECTION: R502.2.2.

BULKHEAD NOTES:

*55"W X 72"L X 19.5" H (67" X 48" OPENING)
*CONTRACTOR TO CONFIRM SIZE & LOCATION

WINDOWS:

WINDOWS:

ALL GLAZING WITHIN 60 IN. OF TUB OR SHOWER FLOOR, 60 IN. OF A STAIR LANDING OR GREATER THAN 9 SQUARE FEET ARE TO HAVE SAFETY GLAZING

EGRESS:

WINDOW ESCAPE & RESCUE REQUIREMENTS (R310 & R612):
EVERY BEDROOM SHALL BE PROVIDED WITH AN EGRESS WINDOW WITH FINISH SILL HEIGHT NOT GREATER THAN 44" ABOVE THE FINISH FLOOR HEIGHT AND SHALL HAVE A MINIMUM OPEN-ABLE AREA OF 5.7 SQ. FT.
IN ALL ROOMS USED FOR SLEEPING AND IN ALL BASEMENTS WITH HABITABLE SPACES, ONE WINDOW SHALL OPEN A MINIMUM OF 5.7 SQUARE FEET, 20" WIDE, 24" HIGH WITH A MAXIMUM SILL HEIGHT OF 44".

SKYLIGHTS:

SKYLIGHTS ARE TO BE GLAZED WITH TEMPERED GLASS ON OUTSIDE AND LAMINATED GLASS ON THE INSIDE (UNLESS PLEXIGLAS).

GLASS TO HAVE MAXIMUM CLEAR SPAN OF 25 IN. AND FRAME IS TO BE ATTACHED TO A 2x CURB WITH A MINIMUM OF 4 IN. ABOVE ROOF PLANE.

OPENINGS:

ALL PENETRATIONS OF THE BUILDING ENVELOPE SHALL BE SEALED WITH CAULK OR FOAM.

DECKS – STAIRS - RAILS:

MINIMUM STAIR REQUIREMENTS:
MAXIMUM RISE = 7 3/4"
MINIMUM RUN = 10"
MINIMUM HEAD CLEARANCE = 6'8"
MINIMUM STAIR WIDTH 36"

TREADS MUST BE UNIFORM AND CAN NOT VARY FROM THE LARGEST TO THE SMALLEST BY MORE THAN 3/8".

A FLIGHT OF STAIRS SHALL NOT HAVE A VERTICAL-RISE LARGER THAN 12 FEET BETWEEN FLOOR LEVELS OR LANDINGS.
EXTERIOR SPIRAL STAIRS TO BE FABRICATED AND INSTALLED PER THE MFG. INSTRUCTIONS.
PORCHES, BALCONIES, RAMPS, OR RAISED FLOOR SURFACES LOCATED MORE THAN 30" ABOVE THE FLOOR OR GRADE BELOW SHALL HAVE GUARDS NOT LESS THAN 36" IN HEIGHT.

OPEN SIDES OF STAIRS WITH A TOTAL RISE OF MORE THAN 30" ABOVE THE FLOOR OR GRADE BELOW SHALL HAVE GUARDS NOT LESS THAN 34" IN HEIGHT MEASURED VERTICALLY FROM THE NOSING OF THE TREADS.
HANDRAILS SHALL BE PLACED BETWEEN 34" TO 38" ABOVE THE NOSING OF TREADS AND LANDING. STAIRWAYS FOR DWELLINGS WITH FOUR OR MORE RISERS SHALL HAVE HANDRAILS. (R311.7.8)
THE HAND GRIP PORTION OF HANDRAILS SHALL NOT BE LESS THAN 1-1/2" OR GREATER THAN 2" IN CROSS-SECTIONAL DIMENSION.
HANDRAILS SHALL BE CONTINUOUS THE FULL LENGTH OF THE STAIRS.
THE ENDS OF HANDRAILS SHALL RETURN TO WALL OR TERMINATE INTO A NEWEL POST OR SAFETY TERMINAL.
STAIRWAYS HAVING LESS THAN 2 RISERS DO NOT REQUIRE A HANDRAIL.
THE OPENINGS BETWEEN BALLISTERS NEWELS IS TO BE NO MORE THAN 4". THE TRIANGULAR OPENINGS FORMED BY THE RISER, TREAD, AND BOTTOM OF GUARDRAIL SHALL NOT ALLOW A 6" DIAMETER SPHERE TO PASS THROUGH.

GENERAL PLUMBING & HVAC NOTES:

METALLIC GAS PIPE, WATER PIPE, AND FOUNDATION REINFORCING BARS SHALL BE BONDED TO THE ELECTRICAL SERVICE GROUND.

DRYER, WATER HEATER, KITCHEN AND BATHROOM VENTING SHALL EXHAUST TO THE OUTSIDE OF THE BUILDING AND BE EQUIPPED WITH A BACK-DRAFT DAMPER.

ALL GAS LINES SHALL BE SIZED FOR APPLIANCE LOAD. ALL JOINTS SHALL BE TAPED WHERE BURIED OR EXPOSED TO WEATHER.

TUBS/SHOWERS SHALL BE PROVIDED WITH INDIVIDUAL CONTROL VALVES OF THE PRESSURE BALANCE OR THE THERMOSTATIC MIXING TYPE. THE WATER TEMPERATURE SHALL BE AT A MAXIMUM OF 120*F.

WATER SOFTENER UNIT SHALL CONDITION WATER BEFORE ENTERING THE WATER HEATERS AND THE COLD-WATER SOURCE.

EACH HOSE BIBB SHALL BE EQUIPPED WITH A BACK-FLOW PREVENTION DEVICE.

HEAT DUCTING SHALL BE SECURED, SEALED, AND INSULATED AS APPROPRIATE.

INSTALL WATERPROOF GYPSUM BOARD AT ALL WATER SPLASH AREAS TO MINIMUM 70" ABOVE SHOWER DRAINS. (see plumbing elevations for heights)

INSULATE WASTE LINES FOR SOUND CONTROL.

DIMENSIONS:

DIMENSIONS ARE TO FACE OF STUD, UNLESS NOTED OTHERWISE.
CLOSETS ARE 24" CLEAR INSIDE, UNLESS DIMENSIONED OTHERWISE.

SQUARE FOOTAGES:

1. Square foot numbers are interior to room and use in calculating finishes.

2. Cabinet and fixtures are not subtracted.

3. Add for doorways when floor finishes run through.

AMY DUTTON
ARCHITECTURE & DESIGN

Revision Table

Number	Date	Revised By	Description

GENERAL NOTES

PROJECT:
NEAL MCCARTHY
26 Whidden, Portsmouth
NH 03801

CONTACT:
AMY DUTTON HOME
9 WALKER STREET
KITTERY, ME 04101
207.345.6050

DATE:
10/1/2025

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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
G-1

FRAMING NOTES

1. ALL DIMENSIONAL LUMBER SHALL BE DOUGLAS FIR LARCH NO. 2 AND LARGER LUMBER SHALL BE DOUGLAS FIR NO.1 OR BETTER, UNO.
2. WALL HEADERS: (2) 2 X 10 DF 2 W/ IK/IT TYP. UNO
3. I-JOISTS AND LVL MEMBERS MUST BE INSTALLED IN COMPLIANCE WITH THEIR LISTINGS.
4. ALL TRUSSES SHALL BE ENGINEERED AND STAMPED WITH A SEPARATE ENGINEERED DOCUMENT.
5. PRE-MANUFACTURED WOOD JOISTS & TRUSSES SHALL BE OF THE SIZE AND TYPE SHOWN ON THE DRAWINGS, MANUFACTURED BY THE TRUSS OR JOIST COMPANY. NO MEMBERS SHALL BE MODIFIED AND MUST BE INSTALLED IN COMPLIANCE WITH THEIR LISTINGS. PROVIDE BRIDGING IN CONFORMANCE WITH THE MANUFACTURERS RECOMMENDATIONS. MEMBERS AND BRIDGING SHALL BE CAPABLE OF RESISTING THE WIND UPLIFT NOTED ON THE DRAWINGS. PRE-MANUFACTURED WOOD JOIST ALTERNATES WILL BE CONSIDERED, PROVIDED THE ALTERNATE IS COMPATIBLE WITH THE LOAD CAPACITY, STIFFNESS, DIMENSIONAL, AND FIRE RATING REQUIREMENTS OF THE PROJECT, AND IS ENGINEER OR ICBO APPROVED.
6. ALL JOISTS AND RAFTERS SHALL HAVE SOLID BLOCKING AT THEIR BEARING POINTS. CONNECT BLOCKING TO TOP OF WALL W/ SIMPSON FRAMING ANCHORS. ROOF JOIST TO HAVE HURRICANE CLIPS @ 48" O.C. OR SIMPSON H-1 HURRICANE CLIPS @ 24" O/C. INSTALL PRIOR TO ROOF SHEETING.
7. ALL WOOD & IRON CONNECTIONS MUST CARRY THE CAPACITY OF THE MEMBER. THE CONTRACTOR IS RESPONSIBLE FOR ALL CONNECTIONS. IF OTHER THAN STANDARD CONNECTIONS ARE REQUIRED, CONTACT PROJECT ENGINEER FOR ASSISTANCE. USE SIMPSON OR OTHER ICC LISTED CONNECTIONS.
8. NAILS: ALL SHEAR WALL SHEATHING NAILS SHALL BE COMMON NAILS ALL FRAMING NAILS SHALL BE COMMON NAILS. OR HOT DIPPED GALVANIZED BOX NAILS. FRAMING NAILS SHALL BE PER IBC TABLE 2304.9.1 OR IRC TABLE R602.3(1).
10. TRUSS SHALL BE ELIMINATED BY THE USE OF COLLAR TIES OR CEILING JOISTS, WHERE REQUIRED.
11. BEVELED BEARING PLATES ARE REQUIRED AT ALL BEARING POINTS FOR BCI & TJI RAFTERS.
12. ALL COLUMNS SHALL EXTEND DOWN THRU THE STRUCTURE TO THE FOUNDATION. ALL COLUMNS SHALL BE BRACED AT ALL FLOOR LEVELS. COLUMNS SHALL BE THE SAME WIDTH AS THE MEMBERS THAT THEY ARE SUPPORTING.
13. ALL EXTERIOR WALLS SHALL BE SHEATHED WITH 1/2" THICK 2-M-W SHEATHING OR EQUAL W/ 8D COMMON NAILS @ 6" O.C. @ EDGES @ 12" O.C. IN FIELD, UNO. SHEATHING SHALL BE CONTINUOUS ACROSS ALL HORIZONTAL FRAMING JOINTS.
14. ALL ROOF SHEATHING AND SUB-FLOORING SHALL BE INSTALLED WITH FACE GRAIN PERPENDICULAR TO SUPPORTS, EXCEPT AS INDICATED ON THE DRAWINGS. ROOF SHEATHING SHALL EITHER BE BLOCKED, TONGUE-AND-GROOVE. SHEAR WALL SHEATHING SHALL BE BLOCKED WITH 2X FRAMING AT ALL PANEL EDGES. SHEATH ROOF PRIOR TO ANY OVER FRAMING.
15. PLYWOOD PANELS SHALL CONFORM TO THE REQUIREMENTS OF "U.S. PRODUCT STANDARD PS 1 FOR CONSTRUCTION AND INDUSTRIAL PLYWOOD" OR APA PRP-108 PERFORMANCE STANDARDS. UNO, PANELS SHALL BE APA RATED SHEATHING, EXPOSURE 1, OF THE THICKNESS AND SPAN RATING SHOWN ON THE DRAWINGS. PLYWOOD INSTALLATION SHALL BE IN CONFORMANCE WITH APA RECOMMENDATIONS. ALLOW 1/8" SPACING AT PANELS ENDS AND EDGES, UNLESS OTHERWISE RECOMMENDED BY THE PANEL MANUFACTURER.
16. GLULAM BEAMS SHALL BE FABRICATED IN CONFORMANCE WITH U.S. PRODUCT STANDARD PS 56, "STRUCTURAL GLUED LAMINATED TIMBER" AND AMERICAN INSTITUTE OF TIMBER CONSTRUCTION, ATTIC 117. EACH MEMBER SHALL BEAR AN ATTIC IDENTIFICATION MARK AND BE ACCOMPANIED BY A CERTIFICATE OF CONFORMANCE. ONE COAT OF END SEALER SHALL BE APPLIED IMMEDIATELY AFTER TRIMMING IN EITHER SHOP OR FIELD.
17. GLULAM BEAMS SHALL BE 24F-V4 DF/DF OR EQUAL FOR SIMPLE SPANS, AND 24F-V8 DF/DF FOR CONTINUOUS SPANS.
18. "VERSA-LAM" & "MICRO-LAM MEMBERS SHALL BE GRADE 2.0 E.
19. ANY WOOD IN CONTACT W/ CONCRETE OR MASONRY SHALL BE PRESSURE TREATED.
20. ALL WOOD & IRON CONNECTORS SHALL BE INSTALLED W/ ALL REQUIRED FASTENERS IN COMPLIANCE W/ THEIR WRITTEN APPROVAL.
21. ALL HANGERS TO BE "SIMPSON" OR EQUAL.
22. NOTIFY CONTRACTOR PRIOR TO DRILLING HOLES IN STEEL BEAMS.

OUTDOOR AND GARAGE OUTLETS:

AT LEAST TWO (2) OUTLETS, ACCESSIBLE AT GRADE LEVEL SHALL BE INSTALLED OUTDOORS AND LOCATED AT THE FRONT AND REAR OF THE DWELLING AND SHALL BE WATERPROOF AND NOT INSTALLED ON THE SMALL APPLIANCE BRANCH CIRCUIT. (E3901.7)
AT LEAST ONE (1) OUTLET MUST BE LOCATED IN AN ATTACHED GARAGE. (E3901.9)
AT LEAST ONE (1) OUTLET MUST BE LOCATED IN A BASEMENT. OUTLETS IN BASEMENTS USED AS NON-HABITABLE ROOMS SHALL BE GFCI PROTECTED.
ALL OUTLETS LOCATED OUTDOORS, IN CRAWL SPACES AT OR BELOW GRADE LEVEL OR IN A GARAGE SHALL BE PROTECTED BY A GROUND-FAULT INTERRUPTER. (E3902)
BALCONIES, DECKS, AND PORCHES THAT ARE ACCESSIBLE FROM INSIDE THE DWELLING UNIT SHALL HAVE AT LEAST ONE RECEPTACLE OUTLET INSTALLED THE PERIMETER OF THE AREA. (3901.7)

ELECTRICAL NOTES:

1 ALL APPLIANCES TO BE ON DEDICATED CIRCUITS - REFER TO APPLIANCE SPECS FOR AMP/VOLTAGE REQUIREMENTS
2 ELECTRICAL RECEPTACLES IN BATHROOMS, KITCHENS, FOUNDATION, AND GARAGE SHALL BE G.F.C.I. PER NATIONAL ELECTRICAL CODE REQUIREMENTS
3 ALL BEDROOM OUTLETS AND LIGHTS BE ARCH FAULT PROTECTED
4 ALL VENTILATION FANS TO BE FANTEC 300 CFM
5 PROVIDE ONE SMOKE DETECTOR AND CARBON MONOXIDE DETECTOR IN EACH ROOM AND ONE IN EACH CORRIDOR ACCESSING BEDROOMS. CONNECT SMOKE DETECTORS TO HOUSE POWER AND INTER-CONNECT SMOKE DETECTORS TO HOUSE POWER SO THAT WHEN ANY ONE IS TRIPPED, THEY WILL ALL SOUND. PROVIDE BATTERY BACKUP FOR ALL UNITS.
6 CIRCUITS SHALL BE VERIFIED WITH DESIGNER PRIOR TO WIRE INSTALLATION
7 FINAL SWITCHES FOR TIMERS AND DIMMERS SHALL BE VERIFIED WITH DESIGNER
8 FIXTURES TO BE SELECTED BY DESIGNER AND HOME OWNER
9 ALL LIGHTING SHALL BE DIMABLE AND USE LED BULBS

NOTE: ALL ELECTRICAL LOCATIONS TO BE CONFIRMED ON SITE WITH DESIGNER, LOCATIONS NOT EXACT UNLESS DIMENSIONED ON PLANS

SCHEDULE MEETING WITH DESIGNER TO REVIEW PLACEMENT AND PLAN ON SITE

CARBON MONOXIDE ALARMS
IRC SECTION R315

PROVIDE A CARBON MONOXIDE ALARMS OUTSIDE OF EACH SEPARATE SLEEPING AREA IN THE IMMEDIATE VICINITY OF THE BEDROOMS IN DWELLING UNITS WITH FUEL FIRED APPLIANCES OR ATTACHED GARAGES.
WHEN MECHANICAL WORK, GAS WORK, REMODELS, OR ADDITIONS REQUIRING A PERMIT OCCURS, THE INDIVIDUAL DWELLING UNITS WITH FUEL FIRED APPLIANCES OR ATTACHED GARAGES SHALL BE EQUIPPED WITH CARBON MONOXIDE ALARMS LOCATED AS REQUIRED FOR NEW DWELLINGS.

SMOKE DETECTORS - IRC SECTION R314

PROVIDE A SMOKE DETECTOR IN EACH SLEEPING ROOM AND AT A POINT CENTRALLY LOCATED IN THE HALLWAY OR AREA GIVING ACCESS TO EACH SLEEPING AREA.
THE SMOKE DETECTOR SHALL RECEIVE ITS PRIMARY POWER FROM BUILDING WIRING AND SHALL BE EQUIPPED WITH A BATTERY BACKUP.
DETECTORS SHALL BE INTERCONNECTED TO SOUND AN ALARM AUDIBLE IN ALL SLEEPING AREAS OF DWELLING UNITS IN WHICH THEY ARE LOCATED.
DETECTORS SHALL NOT BE ON A CIRCUIT WHICH IS GROUND-FAULT INTERRUPTER PROTECTED. DETECTORS IN BEDROOMS TO BE AFCI PROTECTED.
WHEN ALTERATIONS, REPAIRS OR ADDITIONS REQUIRING A PERMIT OCCUR, OR WHEN ONE OR MORE SLEEPING ROOMS ARE ADDED OR CREATED IN EXISTING DWELLINGS, THE INDIVIDUAL DWELLING UNIT SHALL BE EQUIPPED WITH SMOKE ALARMS LOCATED AS REQUIRED FOR NEW DWELLINGS; THE SMOKE ALARMS SHALL BE INTERCONNECTED AND HARD-WIRED.
EXCEPTIONS:
INTER CONNECTION AND HARD WIRING OF SMOKE ALARMS IN EXISTING AREAS SHALL NOT BE REQUIRED WHERE THE ALTERATIONS OR REPAIRS DO NOT RESULT IN THE REMOVAL OF INTERIOR WALL OR CEILING FINISHES EXPOSING THE STRUCTURE, UNLESS THERE IS AN ATTIC, CRAWL SPACE OR BASEMENT AVAILABLE WHICH COULD PROVIDE ACCESS FOR HARD WIRING AND INTERCONNECTION WITHOUT THE REMOVAL OF INTERIOR FINISHES.
WORK INVOLVING THE EXTERIOR SURFACES OF DWELLINGS, SUCH AS THE REPLACEMENT OF ROOFING OR SIDING, OR THE ADDITION OR REPLACEMENT OF WINDOWS OR DOORS, OR THE ADDITION OF A PORCH OR DECK, ARE EXEMPT FROM THE REQUIREMENTS OF THIS SECTION

RECEPTACLE OUTLETS:

(IRC CHAPTER 39)
IN EVERY HABITABLE ROOM, RECEPTACLE OUTLETS SHALL BE INSTALLED SO THAT NO POINT ALONG THE FLOOR LINE IN ANY WALL SPACE, INCLUDING ANY WALL SPACE 2 FEET OR MORE IN WIDTH, IS MORE THAN 6 FEET MEASURED HORIZONTALLY FROM AN OUTLET IN THAT SPACE SO THAT THERE WILL BE AN OUTLET FOR EVERY 12 LINEAR FEET OR FRACTION THEREOF OF WALL LENGTH. FIXED GLASS PANELS, RAILINGS AND OTHER FIXED ROOM DIVIDERS SUCH AS FREESTANDING BAR TYPE COUNTERS SHALL BE INCLUDED IN THE 6' MEASUREMENT. (E3901.2)

ALL RECEPTACLES INSTALLED WITHIN 6 FEET OF A LAUNDRY, UTILITY OR WET BAR SINK SHALL BE PROTECTED BY GROUND-FAULT CIRCUIT INTERRUPTERS. (E3902.7)
MINIMUM OF ONE RECEPTACLE OUTLET IN HALLWAYS 10' OR MORE IN LENGTH SHALL BE INSTALLED.
ALL ROOM CIRCUITS INCLUDING LIGHTING AND SMOKE DETECTORS TO BE AFCI PROTECTED. SEE CODE FOR EXCEPTIONS.

ALL RECEPTACLE OUTLETS SHALL BE TAMPERED RESISTANT. (E4002.14)

ABBREVIATIONS & SYMBOLS

CODE SUMMARY

THESE BUILDING PLANS HAVE BEEN DESIGNED IN ACCORDANCE WITH THE INTERNATIONAL RESIDENTIAL CODE - 2015 EDITION FOR NEW HAMPSHIRE

&	AND
@	AT
℄	CENTERLINE
APPROX.	APPROXIMATE
ARCH.	ARCHITECTURAL
ADJ.	ADJUSTABLE
A.F.F.	ABOVE FINISH FLOOR
A.D.	AREA DRAIN
BSMT.	BASMENT
BLDG.	BUILDING
BLK.	BLOCK
BLKG.	BLOCKING
BM.	BEAM
BET.	BETWEEN
CAB.	CABINET
C.O.	CASED OPENING
CLG.	CEILING
O.C.	CENTER(ON)
CL.	CLOSET
CLR.	CLEAR
COL.	COLUMN
CONC.	CONCRETE
CONT.	CONTINUOUS
CONST.	CONSTRUCTION
CU.	CUBIC
CPT.	CARPET
C.M.U.	CONCRETE MASONRY UNIT
DBL.	DOUBLE
D.F.	DOUGLAS FIR
D.A.	DOUBLE ACTING
DIA.	DIAMETER
DIM.	DIMENSION
DO.	DITTO
DET.	DETAIL
DN.	DOWN
DW	DISHWASHER
DWGS.	DRAWINGS
EA.	EACH
EL.	ELEVATION(GRADE)
ELEV.	ELEVATION(FACADE)
ELV.	ELEVATOR
EQ.	EQUAL
EXIST.	EXISTING
EXP. JT.	EXPANSION JOINT
EXP.	EXPOSED
EXT.	EXTERIOR
FDN.	FOUNDATION
F.E.	FIRE EXTINGUISHER
FGL.	FIBERGLASS
FIN.	FINISH(ED)
F.O.	FACE OF
FLR	FLOOR
F.D.	FLOOR DRAIN
FLUOR.	FLUORESCENT
FT.	FEET-FOOT
F.S.	FULL SIZE
GALV.	GALVANIZED
G.C.	GENERAL CONTRACTOR
G.L.	GLASS
GR.	GRADE
GYP.	GYPSUM
HGT./HT.	HEIGHT
HDWD.	HARDWOOD
H.P.	HIGH POINT
H.M.	HOLLOW METAL
HORIZ.	HORIZONTAL
INSUL.	INSULATION
INCAND.	INCANDESCENT
I.D.	INSIDE DIAMETER
I.P.S	INSIDE PIPE SIZE
INV.	INVERT
JST.	JOIST
JT.	JOINT
LAV.	LAVATORY
LAM.	LAMINATED
MAX.	MAXIMUM
MFR.	MANUFACTURER
MTL.	METAL
MECH.	MECHANICAL
MIN.	MINIMUM
MISC.	MISCELLANEOUS
MLDG.	MOULDING
N.	NORTH
N.I.C.	NOT IN CONTACT
N.T.S.	NOT TO SCALE
NO.	NUMBER
O.H.	OVERHEAD
OPNG.	OPENING
OPP.	OPPOSITE
O.D.	OUTSIDE DIAMETER
O.C.	ON CENTER
OA	OVERALL
PLYWD.	PLYWOOD
P.T.	PRESSURE TREATED
PVC.	POLYVINYL CHLORIDE
PR.	PAIR
PNL.	PANEL
PTN.	PARTITION
PL.	PLATE
POL.	POLISHED
R.	RISER
RAD.	RADIUS
REINF.	REINFORCED/REINFORCING
R.O.	ROUGH OPENING
REQD.	REQUIRED
RF.	ROOF
R.D.	ROOF DRAIN
SECT.	SECTION
SHT.	SHEET
SIM.	SIMILAR
S&P	SHELF AND POLE
SVC.	SERVICE
SH.	SHELVES
SPECS.	SPECIFICATIONS
SQ.	SQUARE
STD.	STANDARD
STL.	STEEL
STRUCT.	STRUCTURAL
SUSP.	SUSPENDED
T.	TREADS
T&B	TOP AND BOTTOM
TBD	TO BE DETERMINED
T&G	TOUGE AND GROOVE
TYP.	TYP.
T.W.	TO THE WEATHER
T.O.	TOP OF
T.O.F.	TOP OF FOOTING
T.O.F.W.	TOP OF FOUNDATION WALL
T.O.S.	TOP OF SLAB
T.O.W	TOP OF WALL
TEL.	TELEPHONE
TEMP.	TEMPERED
TLT.	TOILET
U.N.O.	UNLESS NOTED OTHERWISE
V.I.F	VERIFY IN FIELD
VERT.	VERT
W/	WITH
WD.	WOOD
W.I.C	WALK-IN CLOSET
WH	WATER HEATER
W/O	WITHOUT
W.C.	WATER CLOSET
W.I.	WROUGHT IRON
W.R.	WATER RESISTANT

AMY DUTTON
ARCHITECTURE & DESIGN

Revision Table

Number	Date	Revised By	Description

GENERAL NOTES

PROJECT:
NEAL MCCARTHY
26 Whidden, Portsmouth
NH 03801

CONTACT:
AMY DUTTON HOME
9 WALKER STREET
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207.345.6050

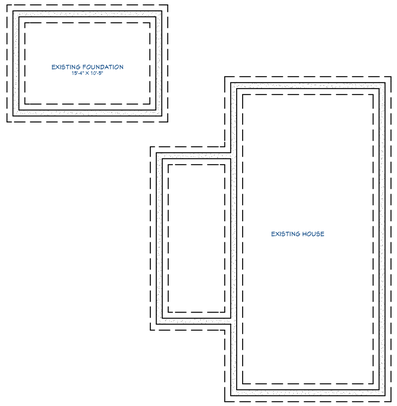
DATE:
10/1/2025

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SCALED FOR:
24" X 36"

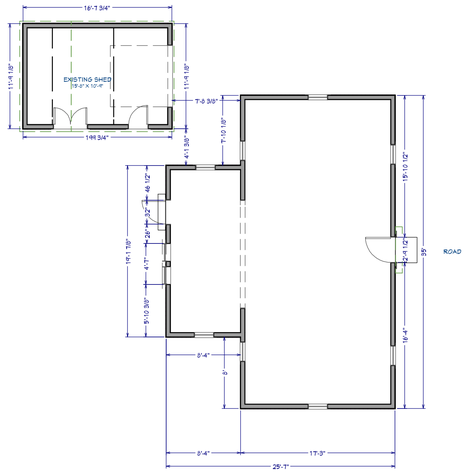
SCALE:
SEE SCALE ON DRAWINGS

SHEET:
G-2



EXISTING FOUNDATION PLAN

SCALE: 1/8" = 1'-0"



EXISTING FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"

WALL LEGEND

= EXTERIOR WALL - 2x6 wood stud

= INTERIOR WALL - 2x4 wood stud, unless noted

= GLASS TOP TILE BOTTOM PONY WALL

= GLASS SHOWER WALL

= NEW WALL

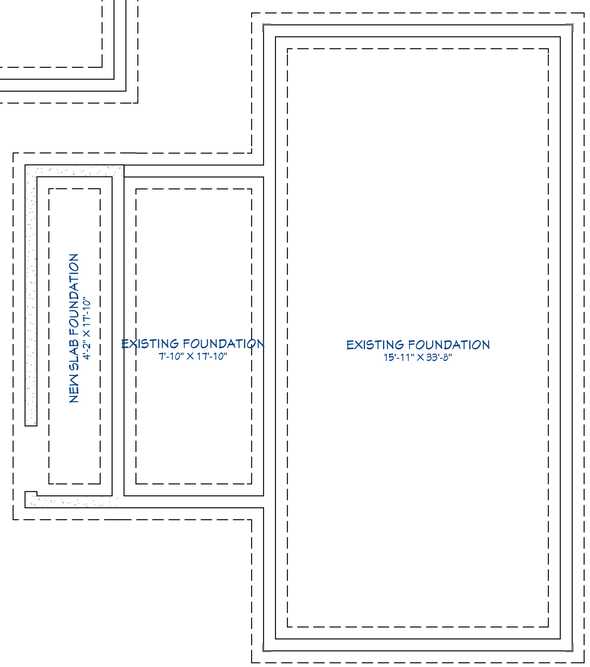
NOTE: 2X6 & 2X4 Wood stud, 16" oc unless otherwise noted.

WALL LEGEND

= NEW 8" CONCRETE FOUNDATION WALL

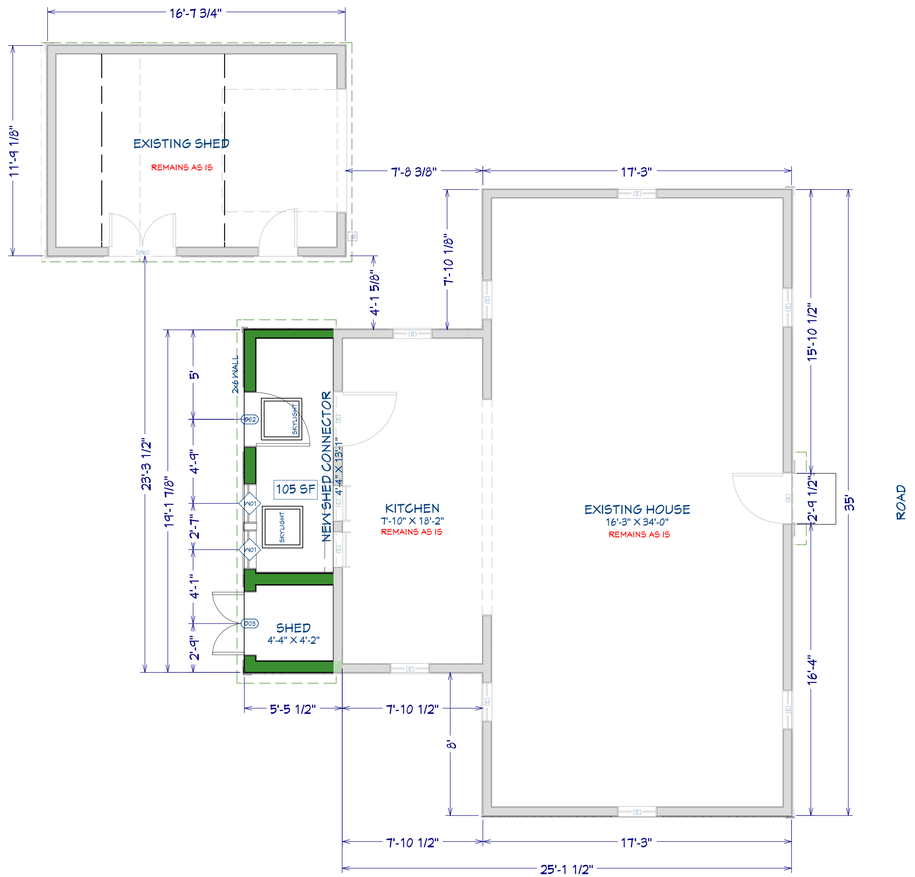
= EXISTING 8" CONCRETE FOUNDATION WALL





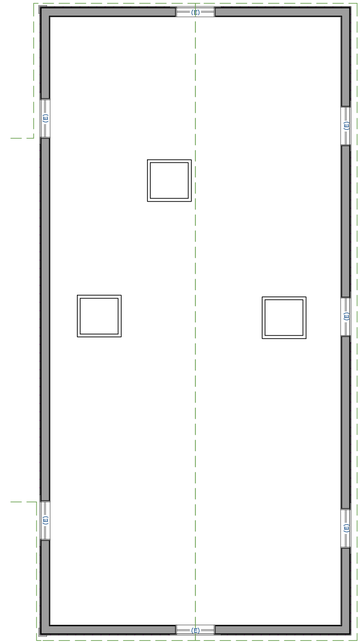
PROPOSED FOUNDATION PLAN

SCALE: 1/4" = 1'-0"



PROPOSED FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"



SECOND FLOOR PLAN REMAINS AS IS

SCALE: 1/4" = 1'-0"

AMY DUTTON
ARCHITECTURE & DESIGN

Revision Table

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FIRST FLOOR

PROJECT:
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SCALED FOR:
24" X 36"

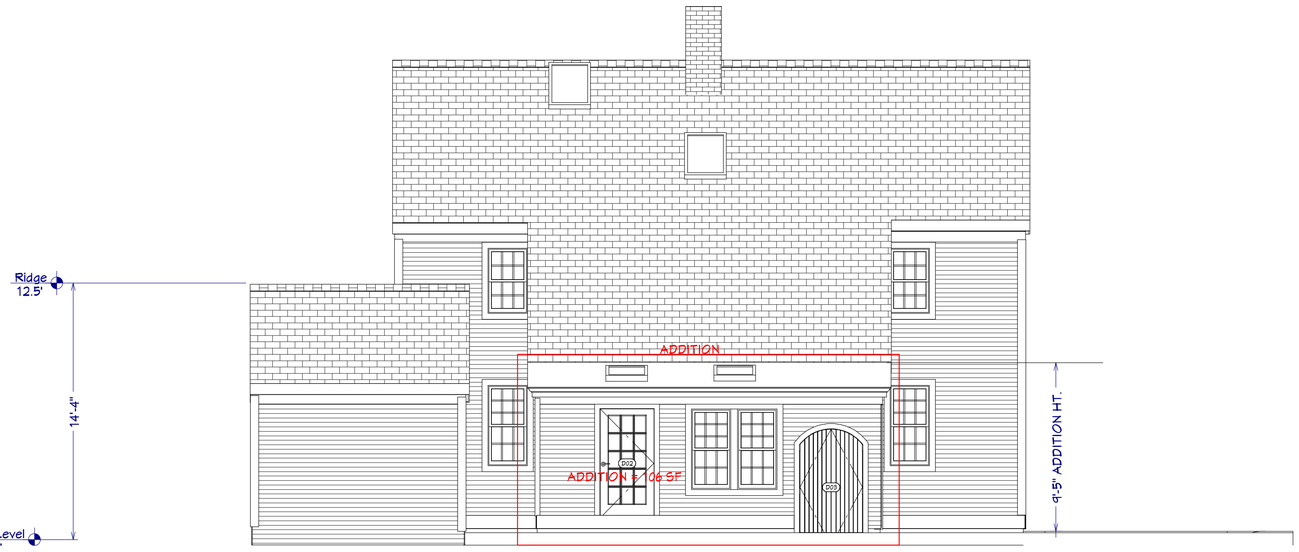
SCALE:
SEE SCALE ON DRAWINGS

SHEET:
A-1



EXISTING TO REMAIN FRONT ELEVATION

SCALE: 1/4" = 1'-0"



PROPOSED REAR ELEVATION

SCALE: 1/4" = 1'-0"

ELEVATIONS

SCALE: 1/4" = 1'-0"

EXISTING REAR VIEW



EXISTING FRONT VIEW





EXISTING REAR ELEVATION

SCALE: 1/8" = 1'-0"

AMY DUTTON
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ELEVATIONS

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DATE:
10/1/2025

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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
A-2



PROPOSED SOUTH ELEVATION | SIDE VIEW

SCALE: 1/4" = 1'-0"

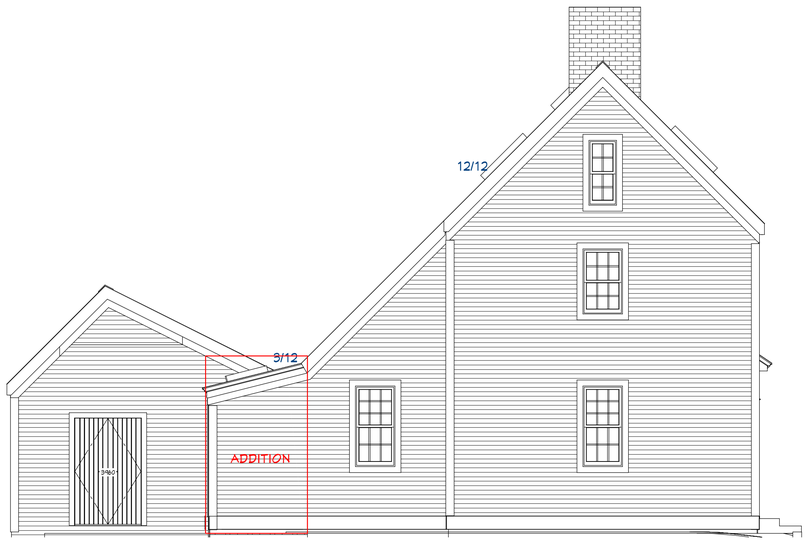


EXISTING WEST ELEVATION | SIDE VIEW

SCALE: 1/8" = 1'-0"

EXISTING EAST VIEW





PROPOSED NORTH ELEVATION | SIDE VIEW

SCALE: 1/4" = 1'-0"



EXISTING EAST ELEVATION | SIDE VIEW

SCALE: 1/8" = 1'-0"

ELEVATIONS

SCALE: 1/4" = 1'-0"

AMY DUTTON
ARCHITECTURE & DESIGN

Revision Table

Number	Date	Revised By	Description

ELEVATIONS

PROJECT:
NEAL MCCARTHY
28 Whidden, Portsmouth
NH 03801

CONTACT:
AMY DUTTON HOME
9 WALKER STREET
KITTERY, ME 04101
207.345.6050

DATE:
10/1/2025

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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
A-3

II. NEW BUSINESS

A. The request of **Double Mc LLC (Owner),** for property located at **134 Pleasant Street** whereas relief is needed for redevelopment of the existing commercial building and construction of horizontal and vertical building expansions for a mixed-use building with below-grade parking and the relocation of drive-through teller lanes, which requires the following: 1) Variance from Section 10.440, Use #19.40 for a drive-through facility as an accessory to a permitted principle use; and 2) Variance from Section 10.331 to change the location and use of the drive-through facility. Said property is located on Assessor Map 116 Lot 30 and lies within the Character District 4 (CD4) and Historic District. (LU-25-138)

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Commercial	Mixed-Use, Co-living, Retail & Office (bank), Drive-thru facility*	Mixed-use	
Lot area (sq. ft.):	53,084	53,084	NR	
Setback Front – Principal (ft.)	N/A	10	10	max.
Side Yard (ft.)	0	0 (north) >50 (south)	NR	
Rear Yard (ft.)	N/A	>5	5	min.
Front Lot Line Buildout (%.):	N/A	51	50	min.
Ground Floor Area Per Use (SF)	11,241	10,336 (Bank) 10,701 (Retail)	15,000	max
Ground Floor Height (ft.)	9.9	14.5	12	min
Height (ft.)	19.5	27.6	2 full stories and short 3rd/ 35 feet	max
Height with Penthouse (ft.):	N/A	26.2	37	max.
Height with Roof appurtenance (ft.)	N/A	26.2	45	max.
Building Coverage (%):	21.2	42.8	90	max.
Open Space Coverage (%):	>10	>10	10	min.
Estimated Age of Structure:	1955	Variance request(s) shown in red.		

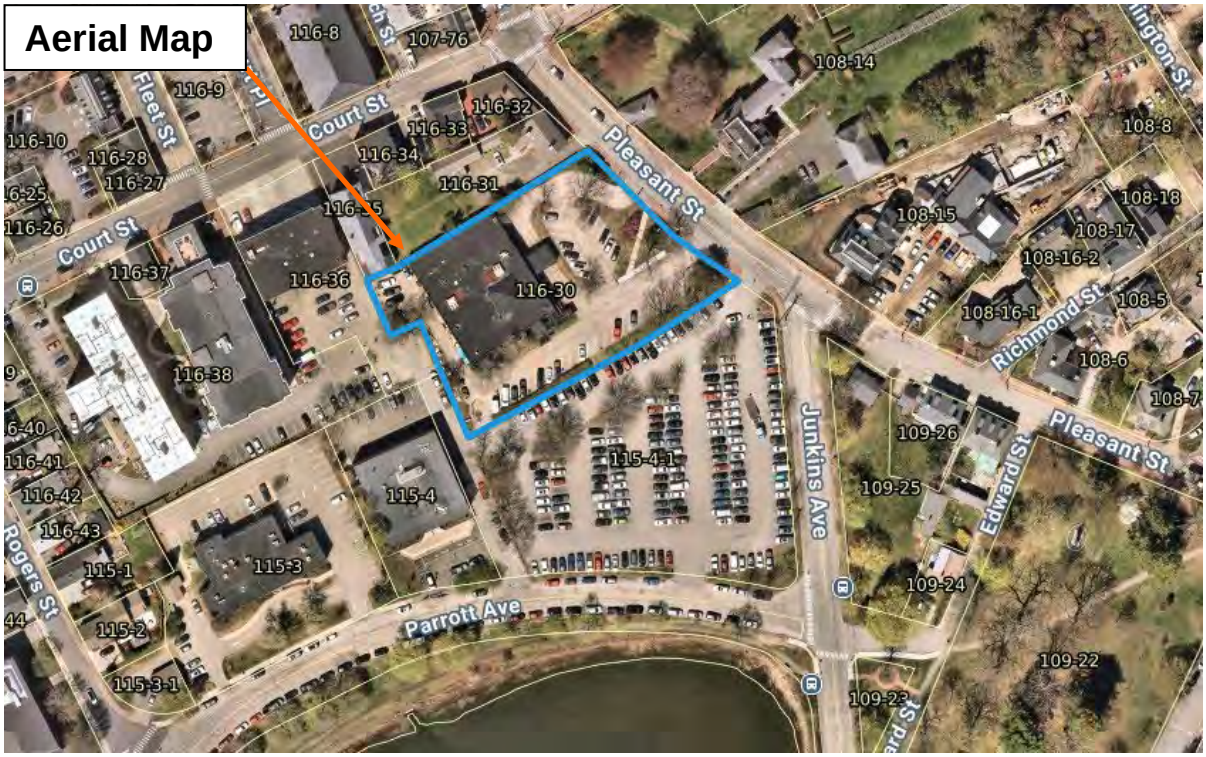
*Drive-through facility as an accessory use to a permitted principal use not permitted per Section 10.440, Use #19.40

Other Permits/Approvals Required

- Building Permit
- Historic District Commission Approval
- Site Plan Review – Technical Advisory Committee and Planning Board
- Coliving Conditional Use Permit – Planning Board
- Parking Conditional Use Permit – Planning Board (as necessary)

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

- **January 24, 1984 –** a Special Exception as allowed in Article XII, Section 10-1201 (d)(1) to permit a reduction/elimination of the required parking by considering the availability of public parking spaces within 500' of the proposed use for a proposed addition of 2,400 s.f. of floor space (for banking use) within an existing building with 33 parking spaces being presently provided where approximately 72 parking spaces would be required. The Board voted to **grant** the request as presented and advertised.

- **August 19, 1986 –** A Special Exception as allowed in Article XII, Section 10-1201 (d)(1) is requested to permit the conversion of 4,480 square feet of existing attic and basement space into additional office space within an existing building creating the need for an additional 23 parking spaces for a total of 96 spaces required where 33 parking spaces are being provided. Said reduction is requested considering the availability of public parking space within 500 ft. of the side. The Board voted to **deny** the request.

- **September 16, 1986 –** The Board **denied** a request for Rehearing of the August 19, 1986 decision. The matter was appealed to the Rockingham County Superior Court, and on November 9, 1987 Judge Vincent Dunn upheld the decision of the Board.

- **January 26, 1988 –** a Special Exception in Article XII, Section 10-1201 (1)(d)(1), to permit the conversion of 2,180 s.f. of unused attic and basement space within the existing building (which will require eleven additional parking spaces) thereby to allow for reduction in the required parking of ninety spaces, with thirty-seven spaces being provided where the Board may allow either the reduction or elimination of the required parking in consideration of the availability of public parking spaces within 500' of the proposed use. The Board voted to **grant** the request as presented and advertised.

- **October 20, 1992 –** 1) a Variance from Article IX, Section 10-906 to allow the installation of two attached signs with a total aggregate area of 206 s.f. in a district where 60 s.f. is the maximum attached sign allowed; 2) a Variance from Article IX, Section 10-906 to allow the installation of 8 directional free-standing signs with advertising and 1 pylon free-standing sign for a total aggregate area of 92.5 s.f. in a district where 12 s.f. is the maximum allowed; 3) a Special exception as allowed in Article IX, Section 10-906 to allow 9 free-standing signs in the Central Business District where such signs may be allowed by a Special Exception; and 4) a Variance from Article IX, Section 10-906 to allow a total aggregate area of 298.5 s.f. in a district where 75 s.f. is he maximum aggregate area allowed. The Board voted to **grant** Variance 1 and Special Exception 3 as presented and advertised. The Board voted to **deny** Variances 2 and 4. They found that all the criteria had not been met and that the request for signage was excessive and not warranted for this area of town. They concluded that there were other alternatives for the 8 directional signs without using the advertising.

- **May 19, 1998 –** 1) a Variance from Article II, Section 10-207 (22)(c&f) to allow 12,715 s.f. of existing bank space to be converted to business and professional office use with the remaining 8,285 s.f. to be continued to be used for banking, 2) a Variance from Article XII,

Section 10-1204 Table 15 to allow 33 parking spaces to be provided where 84 parking spaces are required; and 3) a Variance from Article IX, Section 10-908 Table 14 to allow a) 6 s.f. to be added to an existing 6 s.f. nonconforming freestanding sign, and b) a total aggregate of 252 s.f. of signage where 75 s.f. is the maximum allowed and 246 s.f. exists. The Board voted to **grant** Variances 1 and 2 as presented and advertised. The Board voted to **deny** Variance 3. The Board felt the property was over signed as it exists. They concluded that the existing signage could be redesigned to allow the new tenant signage that would not require relief from the Ordinance.

Planning Department Comments

The site is currently a two-story, 11,000 SF commercial building for Citizens Bank. The applicant is proposing to redevelop the property to include a front addition for expansion of the bank footprint, added retail space, residential apartments and coliving with associated site improvements. The bank has two existing drive-through teller lanes that are proposed to be moved to the south side of the newly redeveloped building. Due to the changes to the site and the existing nonconforming use, the applicant is seeking relief from Table 10.440, Use #19.40 to permit a drive-through facility as an accessory to a permitted principal use.

If the Board decides to grant approval of the requested variance, staff recommends the following condition for consideration:

1. The design and location of the buildings may change as a result of Planning Board review and approval.

Variance Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a) The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR
   Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings,

structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

FRANCIS X. BRUTON, III
CATHERINE A. BERUBE
JOSHUA P. LANZETTA

OF COUNSEL
JAMES H. SCHULTE

Bruton & Berube, PLLC
ATTORNEYS AT LAW

601 Central Avenue
Dover, NH 03820

TEL (603) 749-4529
(603) 743-6300
FAX (603) 343-2986

www.brutonlaw.com

September 24, 2025

VIA HAND DELIVERY

Phyllis Eldridge, Chair
City of Portsmouth Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

RE: Application for Variance
Owner/Applicant: Double MC, LLC
Property: 134 Pleasant Street, Portsmouth, NH
Tax Map 116, Lot 30
Zoning District: CD4

Dear Chair Eldridge:

Enclosed please find a complete copy of the Zoning Board of Adjustment Application that was submitted online, along with a copy of the project narrative and other associated materials in support of the above-named Applicant's request for Variance.

We understand, by submitting this application today, that this matter will be placed on the board's agenda for its meeting of October 21, 2025.

Should there be any questions regarding this application, please do not hesitate to contact us.

Sincerely,

Francis X Bruton

Francis X. Bruton, III, Esquire
E-mail: fx@brutonlaw.com

FXB/mas
Enclosures

cc: Double MC, LLC
Ambit Engineering, Inc.
ARCove, LLC

DOUBLE MC, LLC
APPLICATION FOR VARIANCE

I. INTRODUCTION

Double Mc, LLC, holds title to property located at 134 Pleasant Street as depicted on the City of Portsmouth Tax Map 116 as Lot 30 (hereinafter the "Property"). The Property is adjacent to a right-of-way located in the Municipal Parrott Avenue Parking lot and lies within the City of Portsmouth Character District 4 (CD4) and Historic District Commission (HDC) Zoning Districts. The Property is currently developed with an existing two-story building and a surface parking lot. The current use is a banking facility with two drive-through teller lanes, and offices for Citizens Bank and Collins Engineering. The Property has been utilized since 1982 as a banking facility with drive thru teller lanes.

During a Conceptual Review with the Planning Board on September 18, 2025, the Property Owner was told that a variance would be required for the drive-through teller lanes because our plans proposed changing the side of the transaction window and other subtle changes and that use is not permitted within the CD4 zone. The drive-through teller lanes and transaction window has existed as an integral part of the Property, its use and value for the last 43 years. Downtown Portsmouth currently has drive-through teller lanes for TD Bank, M&T Bank and Piscataqua Savings Bank with all properties located within CD4 and CD5 zones. In recent history there were also teller drive-through lanes for Eastern Bank near the Foundry Garage and for Indian Head Bank and Trust at 3 Pleasant Street. To the best of the Applicant's knowledge, the site has not been the subject of any zoning enforcement action related to the drive-through teller lanes and its associated accessory structure. It appears the use of drive-through teller lanes was removed at the same time character based zoning was enacted in or around 2015. For those reasons, it is believed, and therefore averred, that the drive-through use is a valid nonconforming use.

The project consists of the adaptive reuse of the existing two-story structure, with horizontal and vertical building expansions toward Pleasant Street, below grade (basement) parking and relocating the drive-through teller lanes. By relocating the drive-through teller lanes and the parking underground, the extensive non-conforming surface parking lots will be removed in favor of a new building that will activate Pleasant Street and bring the front yard set-back into compliance with CD4 zone. The CD4 zone requires a front yard building setback of no greater than 10 feet and the existing building has a front yard setback of approximately 100 feet from the Pleasant Street front property line. The existing location of the drive-through makes it impossible to construct a new building that conforms to the zoning ordinance without changes to the drive-through location. Character based zoning requires front property lines to be activated with buildings and not parking lots or drive-through lanes. The Owner's proposed plans will bring life to a new pedestrian friendly sidewalk on Pleasant Street, cure the non-conforming front yard building set back, improve vehicular circulation and improve the non-conforming drive-through teller lane use. The new building and teller drive-through lanes will be the new home for Kennebunk Savings Bank.

The Portsmouth Zoning Ordinance provides:

10.331 A lawful nonconforming use may continue, but may not be extended, enlarged or changed except in conformity with this Ordinance.

Given the foregoing, the Applicant requests a variance from Section 10.331 to change the location and use of the drive-through, as described above.

For the foregoing reasons, and based upon the following, the Applicant respectfully submits that the grant of the variance requested herein is reasonable and appropriate.

II. VARIANCE CRITERIA

New Hampshire RSA 674:33, I (a)(2) and Section 10.233 of the Portsmouth Zoning Ordinance set forth five criteria upon which variances may be granted. The application of these criteria to the Applicant's proposal is discussed hereafter.

A. Granting the variances will not be contrary to the public interest.

To be contrary to the public interest or injurious to public rights, the variance must unduly and in a marked degree conflict with the basic zoning objectives of the ordinance. See *Chester Rod & Gun Club*, 152 N.H. at 581. In making the determination, the Board should determine whether the variance would "alter the essential character of the locality or threaten public health, safety or welfare."

Section 10.121 of the Portsmouth Zoning Ordinance states that, "[t]he purpose of this Ordinance is to promote the health, safety and general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan.

The existing drive-through window is located in the middle of the existing building and results in car headlights shining on the abutting property to the north and cars existing directly onto Pleasant Street. The Owner proposes to relocate the drive-through lanes as depicted on the attached plans which gets car headlights and any noise from transaction windows away from the residential scale abutter to the north and more appropriately accessed from the existing travel lanes and the Parrott Avenue Municipal Parking lot. The proposed construction on the Property will act as a solid buffer between the activities of the drive-through that currently exist, making the new location more desirable than the current location. The proposed relocation also provides for much needed expansion space for Kennebunk Savings Bank who has leased the Property. It is respectfully submitted that granting the variance would not alter the essential character of the locality or threaten public health, safety or welfare of the immediate neighborhood by relocating the existing drive-through as proposed.

B. The spirit of the ordinance is observed.

When considering whether the granting of the variance will observe the spirit of the ordinance, the New Hampshire Supreme Court has indicated this review is substantially related, and similar to the review regarding public interest. See *Harborside Associates, L.P. v. Parade*

Resident Hotel, LLC, 162 NH 508, 514 (2011). Thus, the Applicant submits that the rationale set forth above regarding "public interest" is equally applicable to the Board's review as to whether the spirit of the ordinance is observed with the grant of the variance.

C. The granting of the requested relief will do substantial justice.

In *Malachy Glen Associates v. Town of Chester*, 155 N.H. 102, 109 (2002), the New Hampshire Supreme Court held that, "…the only guiding rule [in determining whether the requirement for substantial justice is satisfied] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." The Court also noted that it would look at whether a proposed development was consistent with the area's present use. In this instance, the grant of the variance would result in substantial justice as it would allow the relocation of an existing drive-through use for banking purposes. The location of the drive-through will meet the performance and setback standards set forth in Section 10.835.20 and Section 10.835.30 of the Zoning Ordinance. The relocation of the drive-through would abut an existing large public parking lot, and would move the drive-through away from inhabited residential scale properties to the north. There is no negative aspect that the public will suffer from this relocation. Thus, denial of the variances would result in a loss to the Applicant that is not outweighed by any gain to the general public. As such, granting the requested relief would result in substantial justice.

D. Granting the variance will not result in the diminution on value of the surrounding properties.

It is respectfully submitted that all of the surrounding properties have a value associated with them which is premised upon existing buildings and uses located upon the Property. In this instance, it is believed, and therefore averred, that the aesthetic upgrades of the property and the changes to the drive-through, as described herein, will not result in a diminution of surrounding property values. The Applicant believes that the change will increase the value of surrounding property by improving the property with attractive architecture abutting Pleasant Street, incorporating a drive-through into the building design and extensive landscaping. Currently, the Property is non-conforming for the building set-back from Pleasant Street. The Zoning Ordinances requires a structure to be no more than 10 feet from the front property line and currently the Property has a parking lot on the front property line and the building is approximately 100 feet from the front property line. This plan continues an existing non-conforming use of a drive-through teller lane and at the same time cures the non-conforming front yard setback, so overall, it gets the Property closer to zoning conformance.

E. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

An unnecessary hardship exists when, owing to special conditions of the property that distinguish it from other property, no fair and substantial relationship exists between the public purposes of the ordinance provisions and the specific application of those provisions to the property and the proposed use is a reasonable one. (Section 10.233.31 of Zoning Ordinance).

The property is distinguished from other properties in the area given its large size, at approximately 1.22 acres, located next to the downtown area. The Property is also unique given the location of the property to a large public parking lot. In addition, the Property is one of only a few properties within its vicinity that has a nonconforming drive-through facility. This nonconforming drive-through has been utilized for over thirty years by a bank, as is now proposed.

The current location of the current drive-through is adjacent to inhabited parcels and points directly at Pleasant Street. The relocation diminishes these aspects of the current use by locating the drive-through to a location that is adjacent to the Parrot Street parking lot and away from the travel view of Pleasant Street. The proposed drive-through meets or exceeds all performance and setback standards of a drive-through regulated by the Zoning Ordinance. Meeting the performance and setback standards highlights how the general purpose of the Zoning Ordinance is preserved and met, all of which is possible given the unique size of the Property. Coupled with the improvements to the drive-through, as described hereinabove, the Applicant respectfully submits that the change of location and continued use of the existing drive-through improves the nonconforming use, and, for these reasons, denying the ability to so change this nonconforming use would result in an unnecessary hardship.

The Applicant respectfully submits that the change to the drive-through, as detailed herein, results in a reasonable change to this nonconforming use.

III. CONCLUSION.

For all the reasons set forth hereinabove, Double MC, LLC respectfully requests that the relief request herein be granted.









H0.2 **EXISTING PHOTOS**
134 PLEASANT STREET
PORTSMOUTH, NH 03801

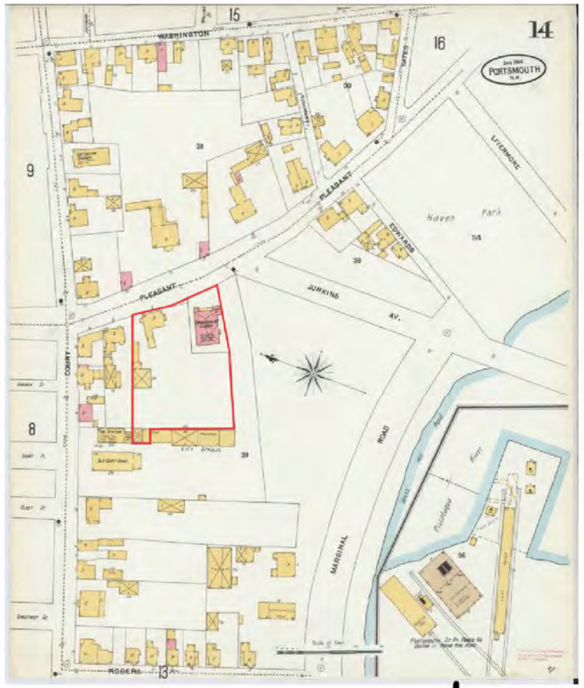
07/25/2025

ARCOVE ARCHITECTS

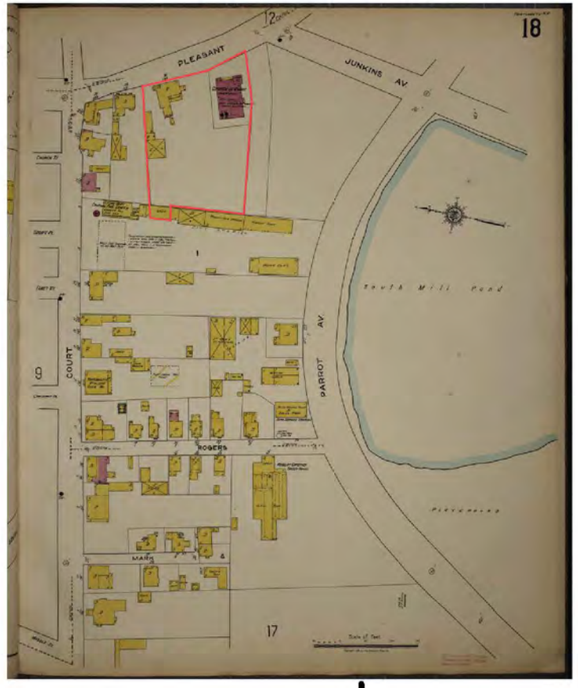
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1813
UNIVERSALIST CHURCH & HOUSING



1904
UNIVERSALIST CHURCH & HOUSING



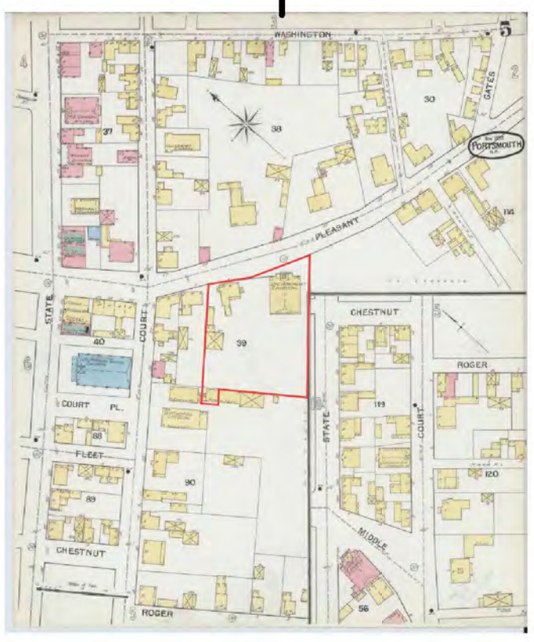
1920
UNIVERSALIST CHURCH & HOUSING



1952
GROCERY IN CONSTRUCTION TILL 1953
CHURCH DEMOLISHED AFTER



1877
UNIVERSALIST CHURCH & HOUSING



1892
UNIVERSALIST CHURCH & HOUSING



1910
UNIVERSALIST CHURCH & HOUSING

H0.4

HISTORIC TIMELINE
134 PLEASANT STREET
PORTSMOUTH, NH 03801

07/25/2025

ARCOVE ARCHITECTS

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EXISTING DRIVE UP WINDOW DIMENSION SKETCH

OWNER: DOUBLE MC, LLC
PROPERTY LOCATION: 134 PLEASANT STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE



GRAPHIC SCALE

40 0 20 40 80 120

(IN FEET)
1 inch = 40 ft.

SCALE: 1"=40' DATE: AUGUST 4, 2025

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
200 Griffin Rd. Unit 14
Portsmouth, New Hampshire 03801
603.430.9282
WWW.HALEYWARD.COM

FB 276 PG 60 JOB # 5010156.1532

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PROPOSED DRIVE UP WINDOW DIMENSION SKETCH

OWNER: DOUBLE MC, LLC
PROPERTY LOCATION: 134 PLEASANT STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE



GRAPHIC SCALE

40 0 20 40 80 120

(IN FEET)
1 inch = 40 ft.

SCALE: 1"=40'

DATE: SEPTEMBER 24, 2025

HALEY WARD
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JOB # 5010156.1532

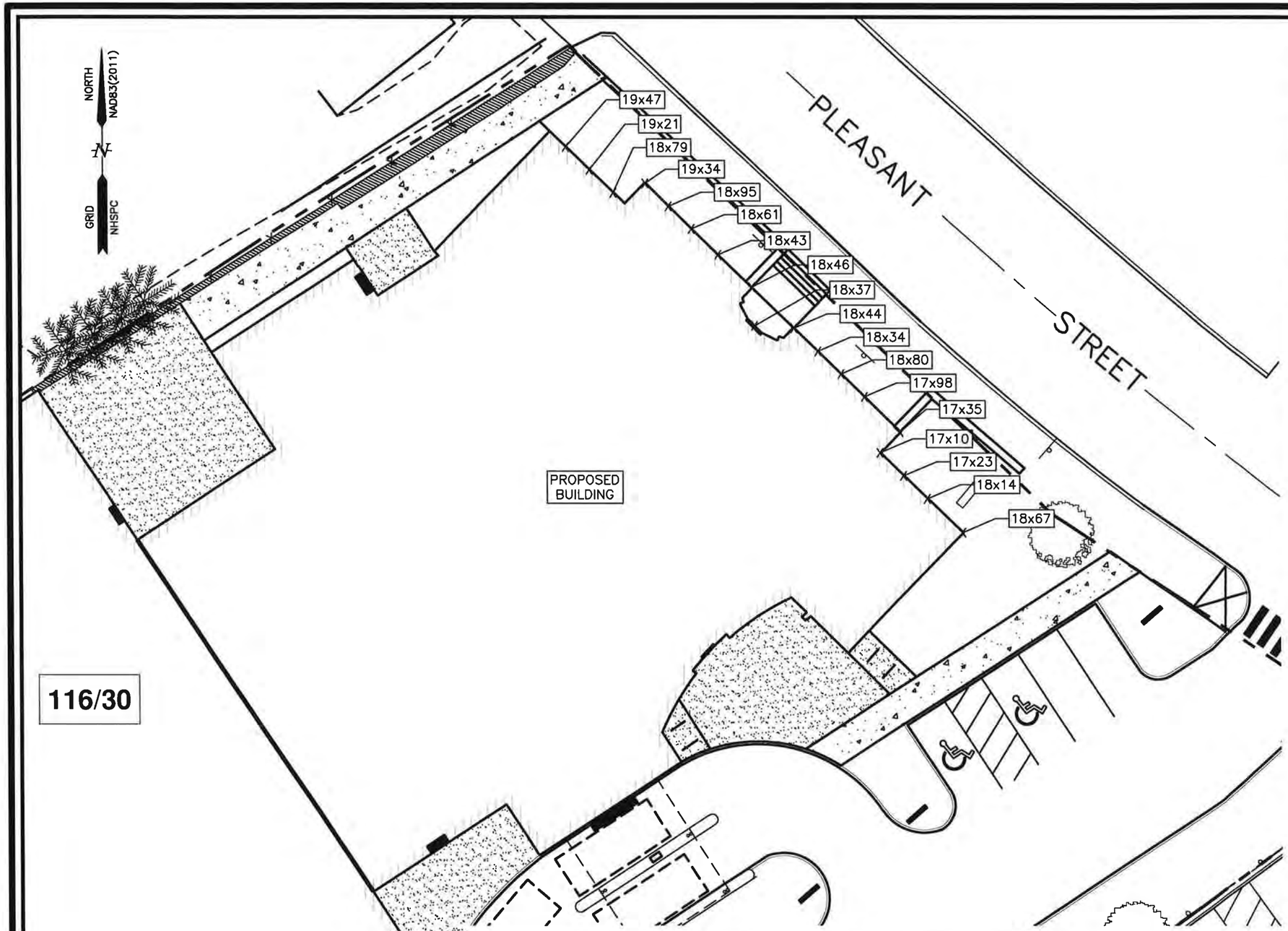
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134 Pleasant Street, Portsmouth NH

ZONING DEVELOPMENT STANDARD 10/7/2025

CD4 (CD-4, HDC): CHARACTER DISTRICT 4

	REQUIRED	EXISTING	PROPOSED
Height	2 stories with short 3rd = **35' max**	2 stories, 19'-6"	2 STORIES, 27'-7"
Penthouses	may exceed bldg height by 2'	n/a	25'-6"
Roof appurtenance	may exceed bldg height by 10'	n/a	25'-6"
Façade Types	stoop, step, shopfront, officefront, recessed-entry, dooryard, gallery & arcade	n/a	SHOPFRONT
Building Types	Rowhouse, Apartments, live/work, small or large commercial, mixed use, flex space & community.	commercial	large commercial & residential
Setback Front (principle) max	10	n/a	10', principal façade
Setback Front (secondary) max	15	n/a	
Side	NR	n/a	11'-8" (north) and 50'-9" (south, drivethrough)
Rear, min	>of: 5' from rear line or 10' from cl alley	n/a	5'
Front lotline buildout	50% min	n/a	51%
Lot area (sf)	NR	53,084	53,084
LOT area per dwelling	NR	n/a	n/a
Coverage, maximum	90%	21.2%	42.8%
Footprint, max* 10.5a43.40	15,000	11,241	connected buildings, 11,717 & 11,012
Ground floor area per use, max	15,000	11,241 (bank)	10,336 Bank & 10,701 Retail
Open space, minimum	10%	> 10%	> 10%
Permitted uses (cd4 & cd5)	multifamily, live/work, office, retail, restaurant (<500occ)	office (bank)	coliving, retail & office (bank)
Block length, max (ft)	200	n/a	104'-10"
Façade modulation length, max (ft)	80	n/a	27'-8"
Entrance spacing, max (ft)	50	n/a	50'
Floor height above sidewalk, max	36"	4"	4"
Ground floor height, min	12'	n/a	14'-6" addition & 9'-11" existing
Second floor height, min	10'	n/a	10'-0" addition & 8'-9" existing
Glazing, shopfront, min	70%	n/a	design is in development
Glazing, other	20%-50%	n/a	design is in development
Roof types(pitch)	flat, gable (6:12-12:12), hip(>3:12), gambrel/mansard(6:12-30:12)	flat	flat and hipped
Parking, off-street	when >20 spaces, max spaces = 120% of min required is the max allowed. 10.1112.60 mixed used - some shared spaces allowed.		design is in development, and will conform to ordinance
Parking, Residential	Coliving, .25 spaces per sleeping unit		design is in development, see attached summary
Parking, Professional office	1 per 350 GFA		design is in development, see attached summary
Parking, Professional office	1 per 300 GFA		design is in development, see attached summary



EXISTING AVERAGE GRADE				
	SOUTH	WEST	NORTH	EAST
	N/A	N/A	N/A	19.47
				19.21
				18.79
				19.34
				18.95
				18.61
				18.43
				18.46
				18.37
				18.44
				18.34
				18.80
				17.98
				17.35
				17.10
				17.23
				18.14
				18.67
TOTAL	N/A	N/A	N/A	331.68
/# GRADES	N/A	N/A	N/A	331.68/18
AVG. GRAD	N/A	N/A	N/A	18.43

*SPOT GRADES TAKEN AT POINTS 6' ON CENTER ALONG PROPOSED BUILDING FOOTPRINT.

EXISTING AVERAGE GRADE: 18.43

116/30

EXISTING AVERAGE GRADE PLANE

GRAPHIC SCALE

20 0 10 20 40 60

(IN FEET)
1 inch = 20 ft.

SITE REDEVELOPMENT
134 PLEASANT STREET
PORTSMOUTH, N.H.

STATE OF NEW HAMPSHIRE — No. 738 — JOHN R. CHAGNON — LICENSED LAND SURVEYOR — SIGNATURE

SCALE: 1"=20'

SEPTEMBER 2025
REVISED 10-08-2025

HALEYWARD
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200 Griffin Rd. Unit 14
Portsmouth, New Hampshire 03801
603.430.9282
WWW.HALEYWARD.COM

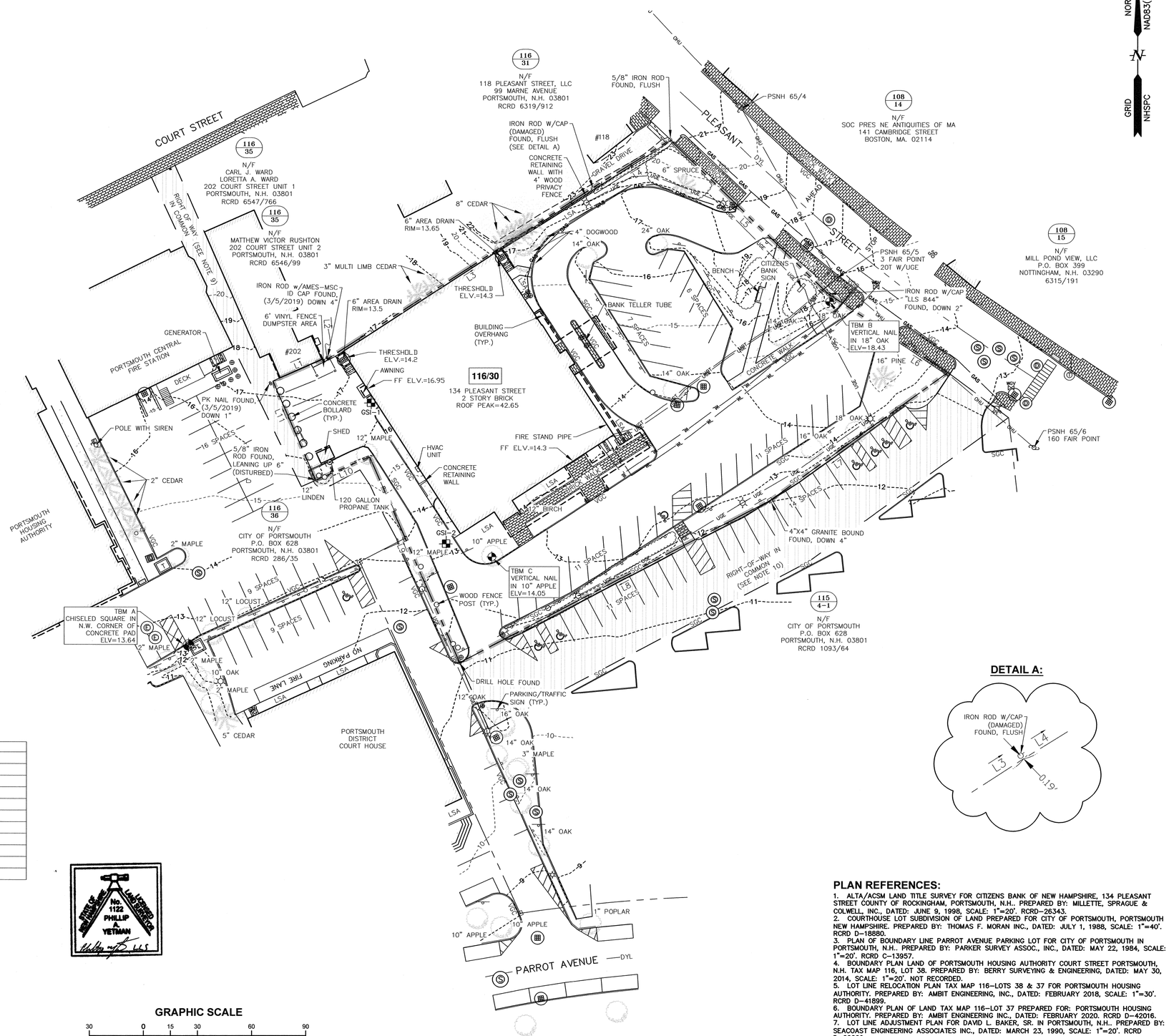
FB 276 PG 60

5010156.1532

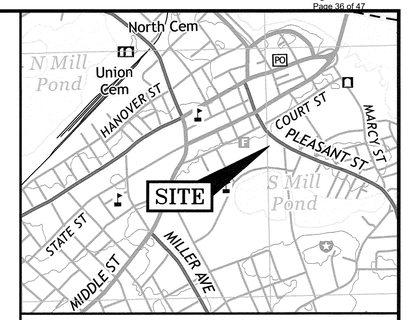
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LEGEND:

DESCRIPTION	*EXISTING*
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
1234/123	DEED BOOK/PAGE
N/F	NOW OR FORMALLY
TYP.	TYPICAL
TBS	TO BE SET
LSA	LANDSCAPE AREA
INV.	INVERT
ELV.	ELEVATION
FF	FINISHED FLOOR
DYL	DOUBLE YELLOW LINE
SGC	SLOPED GRANITE CURB
VGC	VERTICAL GRANITE CURB
MAP 21 LOT 8	21 / 8
BENCHMARK	
RAILROAD SPIKE	
BOUND	
IRON ROD/PIPE FOUND	
SET 5/8" REBAR WITH SURVEYOR'S CAP	
SEWER MANHOLE	S
DRAIN MANHOLE	D
COMMUNICATIONS MANHOLE	D
ELECTRIC MANHOLE	E
UTILITY POLE	
CATCH BASIN	
HYDRANT	
GATE VALVE	GV
GAS/WATER SHUTOFF	GV
BOLLARD	
BORING	GSI-1
TREES	
GAS/ELECTRIC METER	E G
LIGHT POLE	
MAIL BOX	
AIR CONDITIONER	A
SIGN	
SPOT GRADE	12x1
ELECTRIC PEDESTAL	E
ELECTRIC HANDHOLD	
PROPERTY LINE	
APPROXIMATE EXTERIOR PROPERTY LINE	
EDGE OF PAVEMENT	
EDGE OF GRAVEL	
STONE WALL	
FENCE	
SHRUBLINE	
MINOR FOOT CONTOUR	98
MAJOR FOOT CONTOUR	100
GAS LINE	GAS
WATER LINE	WL
STORM DRAIN LINE	SD
SANITARY SEWER LINE	SS
OVERHEAD UTILITY LINE	OHU
UNDERGROUND COMMUNICATIONS LINE	UGT



LOCATION MAP



SCALE: 1" = 1,000'

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S TAX MAP 116 AS LOT 30.

2) OWNERS OF RECORD:
DOUBLE MC, LLC
10 PLEASANT STREET SUITE 400
PORTSMOUTH, N.H. 03801
RCRD 6505/2411

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE JANUARY 29, 2021.

4) EXISTING LOT AREA:
53,084 S.F.
1.22 ACRES

5) PARCEL IS LOCATED IN THE CHARACTER DISTRICT 4 (CD4) DISTRICT.

6) DIMENSIONAL REQUIREMENTS: SEE PORTSMOUTH ORDINANCE FOR REQUIREMENTS.

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF AN EXISTING CONDITIONS SURVEY OF ASSESSOR'S MAP 116, LOT 30 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

9) PARCEL IS BENEFITED BY A RIGHT OF WAY TO COURT STREET AS DESCRIBED IN RCRD 1257/466.

10) PARCEL IS BENEFITED BY A RIGHT OF WAY AS DESCRIBED IN RCRD 2975/349 AND SHOWN ON RCRD D-18880 AND RCRD D-26343.

11) ABUTTER INFORMATION TAKEN FROM THE CITY OF PORTSMOUTH ASSESSORS GIS WEBSITE.

LINE TABLE:

LINE	BEARING	DISTANCE
L1	N66°28'05"E	32.60'
L2	S04°27'10"E	0.98'
L3	N57°05'10"E	175.24'
L4	N58°07'10"E	50.44'
L5	S45°49'50"E	122.39'
L6	S56°42'50"E	79.29'
L7	S54°09'10"W	121.33'
L8	S62°18'10"W	194.24'
L9	N23°38'50"W	124.67'
L10	S66°22'00"W	32.60'
L11	N23°20'25"W	60.00'

DETAIL A:

PLAN REFERENCES:

1. ALTA/ACSM LAND TITLE SURVEY FOR CITIZENS BANK OF NEW HAMPSHIRE, 134 PLEASANT STREET COUNTY OF ROCKINGHAM, PORTSMOUTH, N.H.. PREPARED BY: MILLETTE, SPRAGUE & COLWELL, INC., DATED: JUNE 9, 1998, SCALE: 1"=20'. RCRD-26343.
2. COURTHOUSE LOT SUBDIVISION OF LAND PREPARED FOR CITY OF PORTSMOUTH, PORTSMOUTH NEW HAMPSHIRE. PREPARED BY: THOMAS F. MORAN INC., DATED: JULY 1, 1988, SCALE: 1"=40'. RCRD D-18880.
3. PLAN OF BOUNDARY LINE PARROT AVENUE PARKING LOT FOR CITY OF PORTSMOUTH IN PORTSMOUTH, N.H.. PREPARED BY: PARKER SURVEY ASSOC., INC., DATED: MAY 22, 1984, SCALE: 1"=20'. RCRD C-13957.
4. BOUNDARY PLAN LAND OF PORTSMOUTH HOUSING AUTHORITY COURT STREET PORTSMOUTH, N.H. TAX MAP 116, LOT 38. PREPARED BY: BERRY SURVEYING & ENGINEERING, DATED: MAY 30, 2014, SCALE: 1"=20'. NOT RECORDED.
5. LOT LINE RELOCATION PLAN TAX MAP 116-LOTS 38 & 37 FOR PORTSMOUTH HOUSING AUTHORITY. PREPARED BY: AMBIT ENGINEERING, INC., DATED: FEBRUARY 2018, SCALE: 1"=30'. RCRD D-41899.
6. BOUNDARY PLAN OF LAND TAX MAP 116-LOT 37 PREPARED FOR: PORTSMOUTH HOUSING AUTHORITY. PREPARED BY: AMBIT ENGINEERING INC., DATED: FEBRUARY 2020. RCRD D-42016.
7. LOT LINE ADJUSTMENT PLAN FOR DAVID L. BAKER, SR. IN PORTSMOUTH, N.H.. PREPARED BY: SEACOAST ENGINEERING ASSOCIATES INC., DATED: MARCH 23, 1990, SCALE: 1"=20'. RCRD D-20209.
8. PLAN OF LOTS NOS. 202, 206 & 222 COURT STREET PORTSMOUTH, N.H.. PREPARED BY: JOHN W. DURGIN CIVIL ENGINEERS, DATED: JANUARY 1974, SCALE: 1"=10'. RCRD C-4259.
9. CONDOMINIUM SITE PLAN FIREHOUSE TOWN HOMES CONDOMINIUM. PREPARED BY: AMBIT ENGINEERING, INC..DATED: JANUARY 2020, SCALE: 1"=10'. RCRD D-43127.

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

PHILIP A. YETMAN, LLS 1122 — DATE 7/18/2025

GRAPHIC SCALE
30 0 15 30 60 90
(IN FEET)
1 inch = 30 ft.

REV.	DATE	DESCRIPTION	BY	CHK
0	07-18-2025	ISSUED FOR COMMENT	RJB	PAY

DRAWING ISSUE STATUS
SITE SURVEY

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
200 Griffin Road, Unit 14
Portsmouth, NH 03801
603-430-9282
WWW.HALEYWARD.COM

PROJECT
DOUBLE MC, LLC
134 PLEASANT STREET PORTSMOUTH, N.H.

TITLE
EXISTING CONDITIONS PLAN

DATE	SCALE
MARCH 2025	1"=30'
DRAWN BY: RJB	DESIGNED BY: ---	CHECKED BY: PAY
PROJECT No.: 5010156.1532	FIELD BOOK / PAGE: FB 276 PG 60
DRAWING No.: V101	REV.: 0

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NORTH NAD83(2011)
N
GRID NHSPC

GRAPHIC SCALE

40 0 20 40 80 120

(IN FEET)
1 inch = 40 ft.

REV.	DATE	DESCRIPTION	BY	CHK.
0	7/25/25	ISSUED FOR COMMENT	RJB	JRC

DRAWING ISSUE STATUS

SITE SURVEY

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
WWW.HALEYWARD.COM
200 Griffin Road, Unit 14
Portsmouth, NH 03801
603-430-9282

PROJECT

DOUBLE MC, LLC
134 PLEASANT STREET PORTSMOUTH, N.H.

TITLE

ORTHOPHOTO PLAN

DATE	SCALE
JULY 2025	1"=40'

DRAWN BY	DESIGNED BY	CHECKED BY
RJB	---	PAY

PROJECT No.	FIELD BOOK / PAGE
5010156.1532	FB 276 PG 60

DRAWING No.	REV.
V103	0

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COURT STREET

116/35 N/F CARL J. WARD LORETTA A. WARD & MATTHEW VICTOR RUSHTON

RIGHT OF WAY IN COMMON (SEE NOTE 9)

FIRE STATION

FIREHOUSE TOWNHOMES CONDOMINIUM

116/31 N/F 118 PLEASANT STREET, LLC

108/14 N/F SOC PRES NE ANTIQUITIES OF MA

108/15 N/F MILL POND VIEW, LLC

PLEASANT STREET

NORTH NAD83(2011)

GRID NHSPC

ZONE LINE (CD4 L-1)

ZONE LINE (CD4)

BRICK SIDEWALK EXTENSION

EXISTING RETAINING WALL TO REMAIN

PROPOSED 6' W. SIDEWALK

PROPOSED LANDSCAPED AREA

PROPOSED RETAINING WALL

PROPOSED BRICK SIDEWALK AT ENTRANCE

INFILL BRICK SIDEWALK & CURB

PROPOSED STONE PAVING ENTRANCE– SEE LANDSCAPE PLANS

PROPOSED STEPS

PROPOSED STONE ACCENT AREA– SEE LANDSCAPE PLANS

EXISTING SIGN TO REMAIN

PROPOSED 6'W. SIDEWALK

PROPOSED TIP DOWN, TYP.

PROPOSED 2 STORY BUILDING W/ATTIC 11,266 S.F.

MIXED USE, BANK, & CO–LIVING

PROPOSED BIKE RACKS

18" OAK

116/30

PROPOSED 2 STORY BUILDING W/PENTHOUSE 12,576 S.F.

MIXED USE, BANK, & CO–LIVING

TUBE AND ATM

PROPOSED BANK DRIVE UP WINDOW

PROPOSED DRIVE THRU/ ATM QUEUE

"DRIVE THROUGH" SIGN

"EXIT ONLY" SIGN

LINE OF OVERHEAD DRIVE UP OVERHANG

PROPOSED CURB, TYP.

PROPOSED LANDSCAPED AREA

PROPOSED BENCHES, TYP.

PROPOSED ELEVATED WALKWAY– GARAGE ENTRANCE BELOW

PROPOSED WALKWAY

STEPS

PROPOSED BIKE RACKS

PROPOSED ACCESS RAMP TO LOWER LEVEL PARKING

PROPOSED DOOR, TYP.

PROPOSED LANDSCAPED AREA

PROPOSED STONE PAVING ENTRANCE– SEE LANDSCAPE PLANS

3 VEHICLE QUEUE

16" OAK

18" OAK

EXISTING LANDSCAPED AREA

12" LINDEN

STEPS

PROPOSED RETAINING WALL WITH 18" EXPOSURE ON HIGH SIDE

PROPOSED RETAINING WALL

RAMP DOWN

PROPOSED 6'W. SIDEWALK

PROPOSED LANDSCAPED AREA

PROPOSED CURB, TYP.

"DRIVE THROUGH" SIGN

"DRIVE THROUGH" SIGN

RIGHT–OF–WAY IN COMMON (SEE NOTE 10)

REMOVE CAUTION STRIPING–ADD ONE PARKING SPACE

PROPOSED CURB, TYP.

OPEN UP ACCESS AND RELOCATE COURT PARKING)

PROPOSED LANDSCAPED AREA TO REMAIN

PROPOSED LANDSCAPED AREA

RECONFIGURE SPACE TO ADD LANDSCAPE AREA & ADD (3) PARKING SPACES

116/36 N/F CITY OF PORTSMOUTH

115/4-1 N/F CITY OF PORTSMOUTH

NO PARKING

FIRE LANE

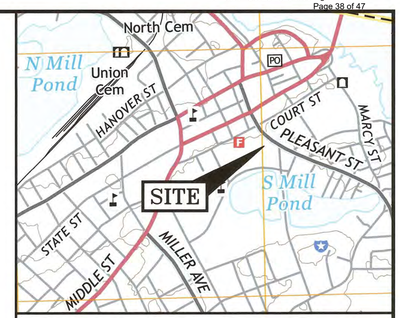
COURT HOUSE

PARROTT AVENUE PARKING LOT

GRAPHIC SCALE

20 0 10 20 40 60

(IN FEET)
1 inch = 20 ft.



LOCATION MAP SCALE: 1" = 1,000'

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S TAX MAP 116 AS LOT 30.

2) OWNERS OF RECORD:
DOUBLE MC, LLC
10 PLEASANT STREET SUITE 400
PORTSMOUTH, N.H. 03801
RCRD 6505/2411

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE JANUARY 29, 2021.

4) EXISTING LOT AREA:
53,084 S.F.
1.22 ACRES

5) PARCEL IS LOCATED IN THE CHARACTER DISTRICT 4 (CD4) DISTRICT.

6) DIMENSIONAL REQUIREMENTS: SEE PORTSMOUTH ORDINANCE FOR REQUIREMENTS.

7) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED MIXED USE DEVELOPMENT ON ASSESSOR'S MAP 116, LOT 30 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

9) PARCEL IS BENEFITED BY A RIGHT OF WAY TO COURT STREET AS DESCRIBED IN RCRD 1257/466.

10) PARCEL IS BENEFITED BY A RIGHT OF WAY AS DESCRIBED IN RCRD 2975/349 AND SHOWN ON RCRD D–18880 AND RCRD D–26343.

11) ABUTTER INFORMATION TAKEN FROM THE CITY OF PORTSMOUTH ASSESSORS GIS WEBSITE.

12) PROPOSED USES:
–KENNEBUNK SAVINGS BANK WITH RELOCATED DRIVE THRU.
–CO–LIVING PODS WITH SLEEPING UNITS.

NOTES:

1. PARKING SHALL CONFORM TO ORDINANCE REQUIREMENTS OR OBTAIN PARKING CUP RELIEF.

2. PLANS ARE FOR ILLUSTRATIVE PURPOSES ONLY AND WILL REQUIRE HDC AND SITE PLAN APPROVAL.

REV.	DATE	DESCRIPTION	BY	CHK.
3	10-08-2025	PLAN NOTES	SJR	JRC
2	09-22-2025	REVISED DRIVE THROUGH	SJR	JRC
1	09-05-2025	REVISED LAYOUT	SJR	JRC
0	07-18-2025	ISSUED FOR COMMENT	SJR	JRC

DRAWING ISSUE STATUS

PERMIT PLANS

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
200 Griffin Road, Unit 14
Portsmouth, NH 03801
603-430-9282
WWW.HALEYWARD.COM

PROJECT

DOUBLE MC, LLC
134 PLEASANT STREET PORTSMOUTH, N.H.

TITLE

VARIANCE PLAN

STATE OF NEW HAMPSHIRE No. 738 JOHN R. CHAGNON LAND SURVEYOR SIGNATURE

DATE: JULY 2025	SCALE: 1"=20'
DRAWN BY: SJR	DESIGNED BY: —
CHECKED BY: JRC	
PROJECT No: 5010156.1532	FIELD BOOK / PAGE: FB 276 PG 60
DRAWING No.: C201	REV.: 3

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1 **PB BASEMENT**
3/32" = 1'-0"

ARCOVE ARCHITECTS
3 CONGRESS ST., SUITE1
PORTSMOUTH NH 03801
603.988.0042
www.ARCove.com

134 PLEASANT STREET

PORTSMOUTH, NH 03801

PROJECT NO: 1028

OWNER

Double Mc, LLC
134 Pleasant Street
Portsmouth, New Hampshire 03801

CIVIL ENGINEERING

Haley Ward
200 Griffin Road, Unit
Portsmouth, NH 03801
(603) 430-9282

LANDSCAPE ARCHITECT

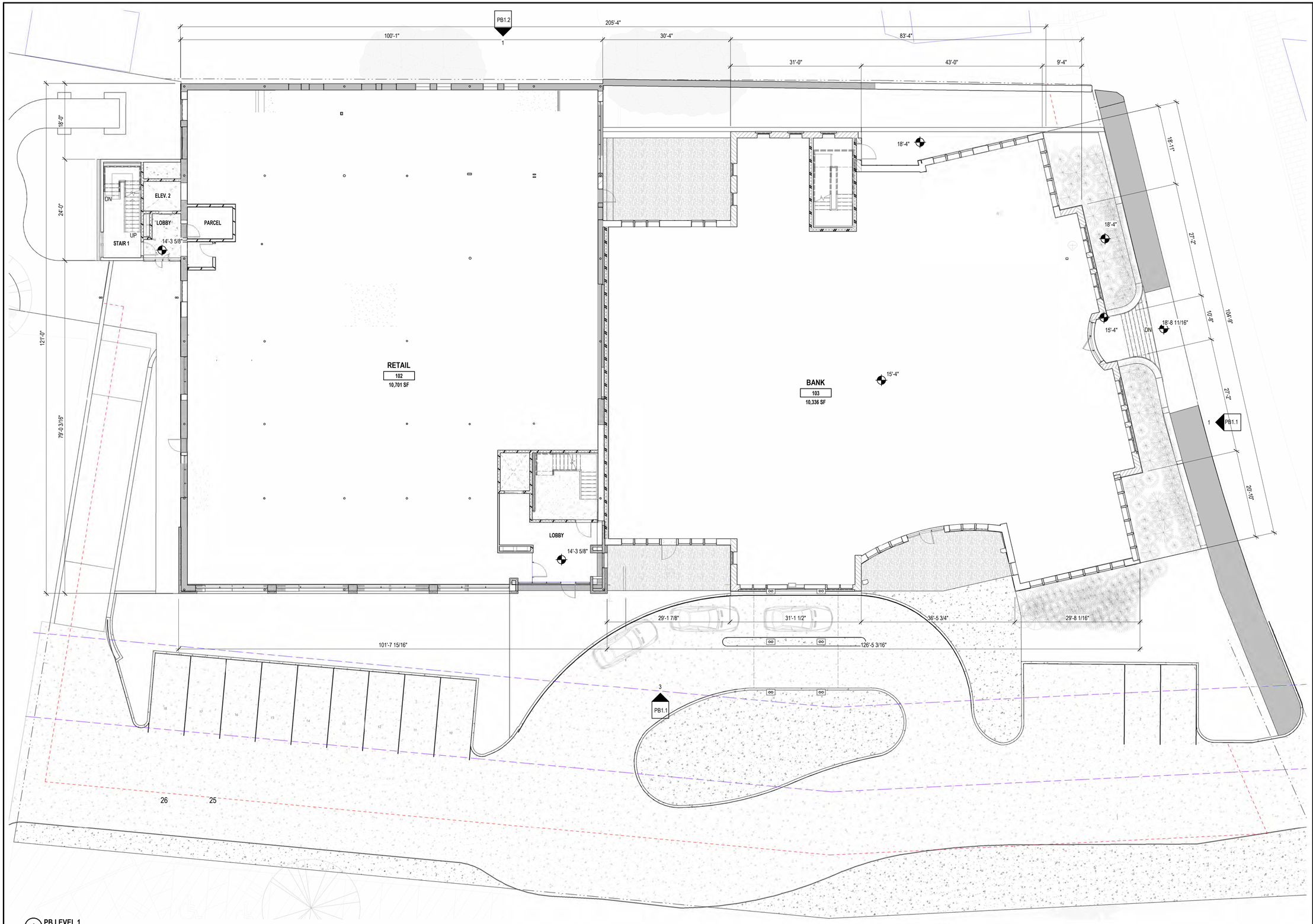
Terra Firma Landscape Architecture
163a Court St
Portsmouth, NH 03801
(603) 531-9109

BASEMENT FLOOR PLAN

SCALE: 3/32" = 1'-0"
DATE: 09/17/2025
DRAWN: Author
CHECKED: Checker

PB0.1

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1 **PB LEVEL 1**
3/32" = 1'-0"

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Portsmouth, NH 03801
(603) 430-9282

LANDSCAPE ARCHITECT

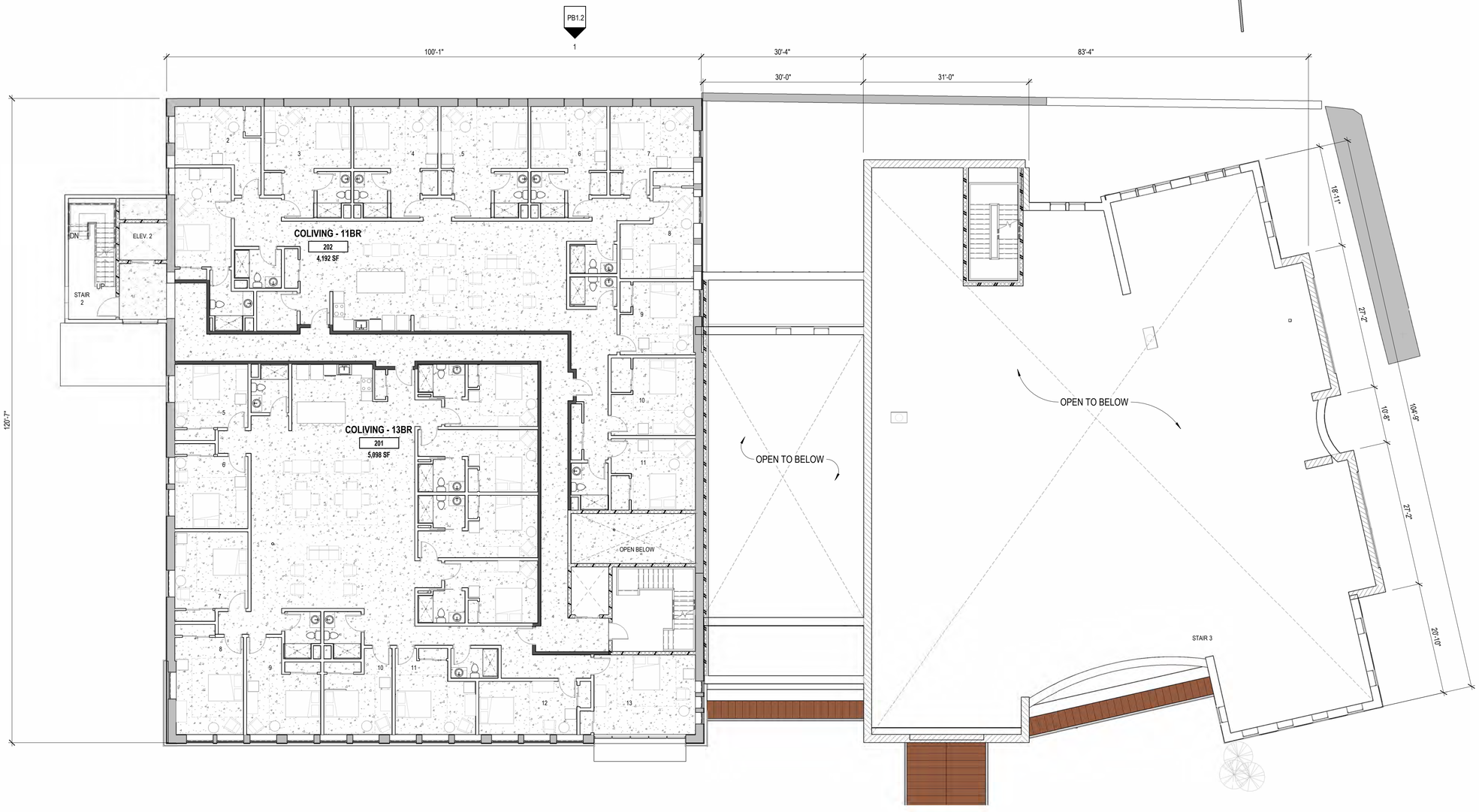
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Portsmouth, NH 03801
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LEVEL 1 FLOOR PLAN

SCALE: 3/32" = 1'-0"
DATE: 09/08/2025
DRAWN: HA
CHECKED: TK

PB0.2

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1 **PB LEVEL 2A**
3/32" = 1'-0"

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134 PLEASANT STREET

PORTSMOUTH, NH 03801

PROJECT NO: 1028

OWNER
Double Mc, LLC
134 Pleasant Street
Portsmouth, New Hampshire 03801

CIVIL ENGINEERING
Haley Ward
200 Griffin Road, Unit
Portsmouth, NH 03801
(603) 430-9282

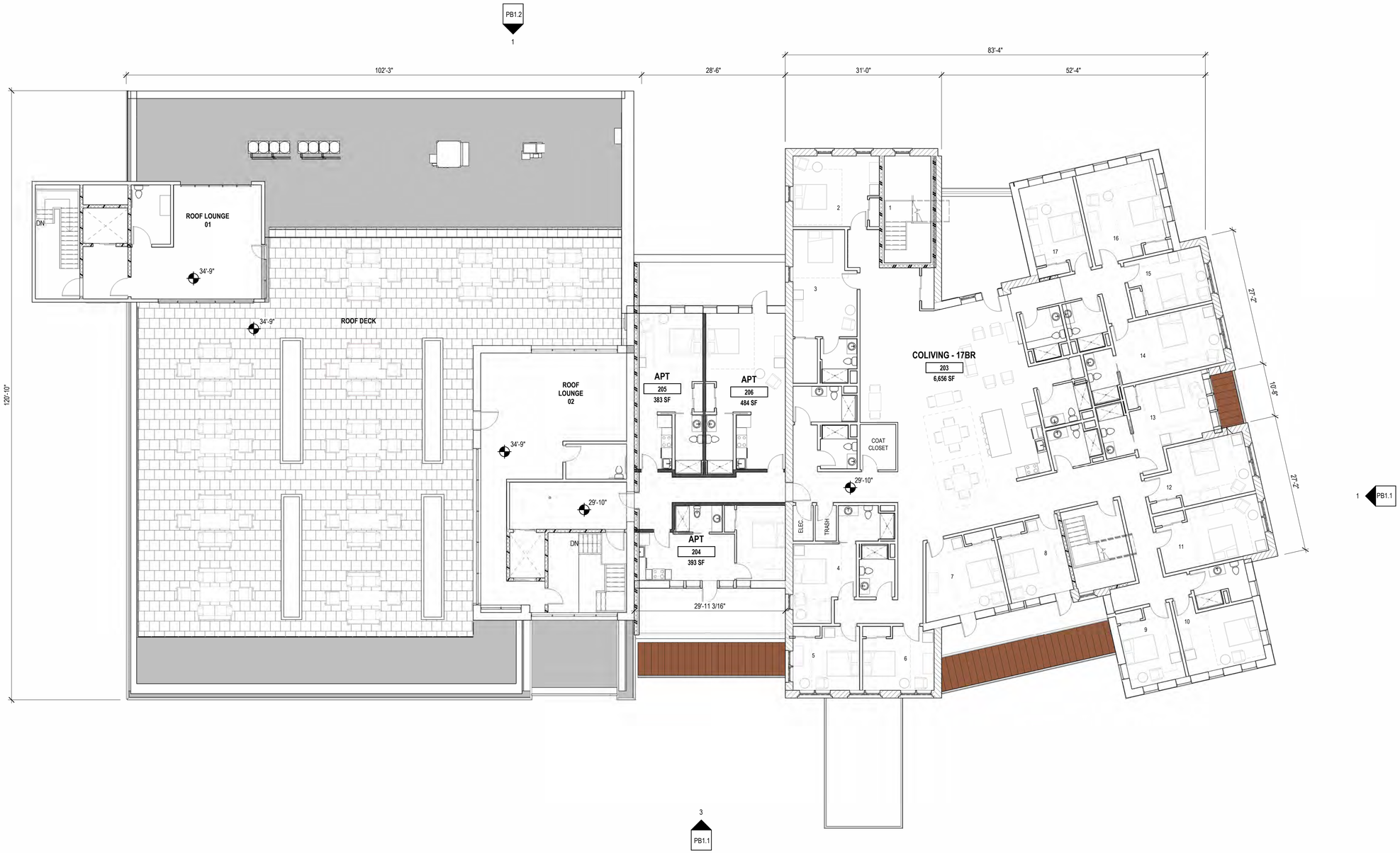
LANDSCAPE ARCHITECT
Terra Firma Landscape Architecture
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Portsmouth, NH 03801
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LEVEL 2A FLOOR PLAN

SCALE: 3/32" = 1'-0"
DATE: 09/17/2025
DRAWN: HA
CHECKED: TK

PB0.3

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1 **PB LEVEL 2B**
3/32" = 1'-0"

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134 PLEASANT STREET

PORTSMOUTH, NH 03801

PROJECT NO: 1028

OWNER

Double Mc, LLC
134 Pleasant Street
Portsmouth, New Hampshire 03801

CIVIL ENGINEERING

HALEY WARD
Haley Ward
200 Griffin Road, Unit
Portsmouth, NH 03801
(603) 430-9282

LANDSCAPE ARCHITECT

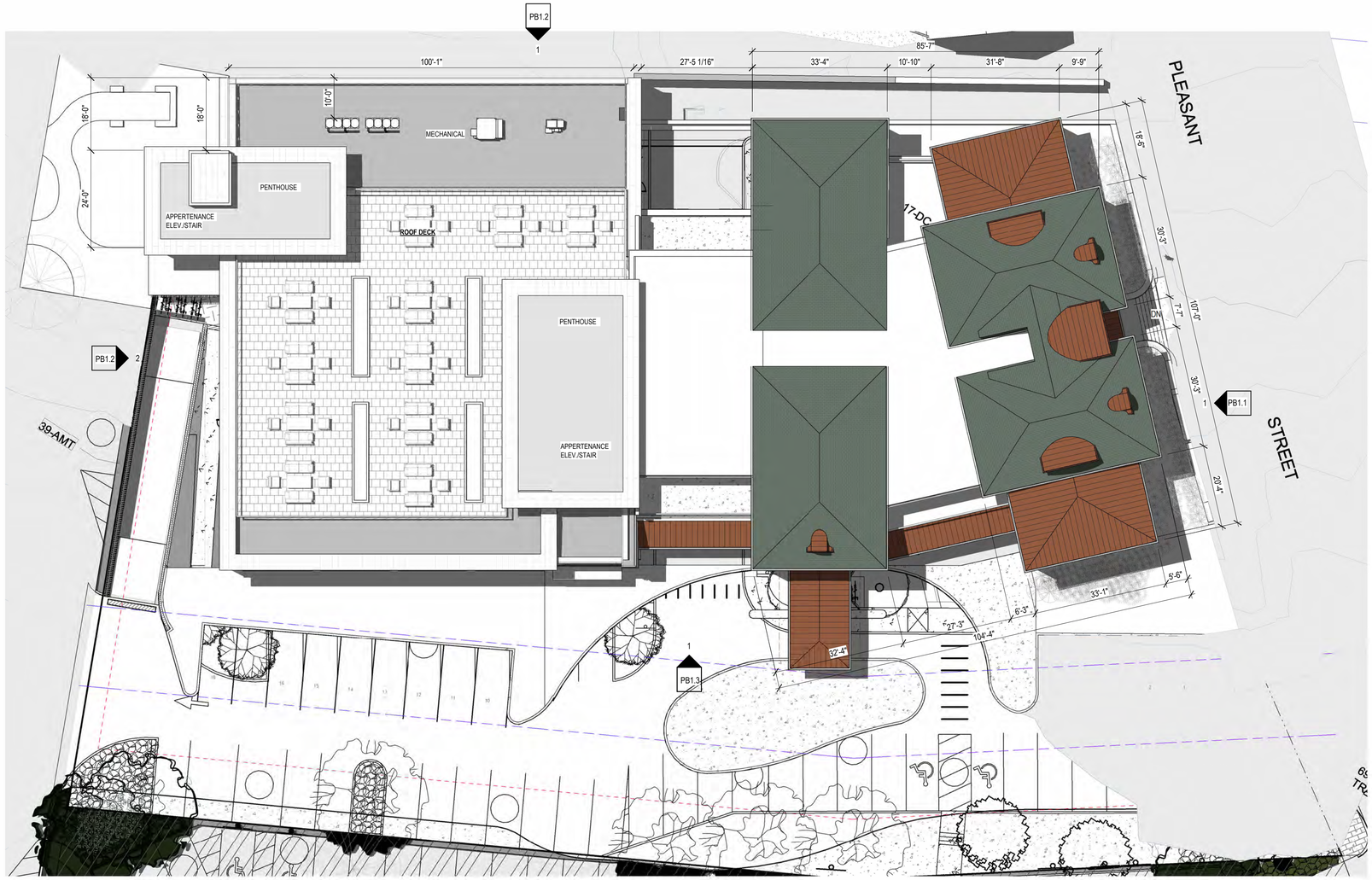
Terra Firma Landscape Architecture
163a Court St
Portsmouth, NH 03801
(603) 531-9109

LEVEL 2B FLOOR PLAN

SCALE: 3/32" = 1'-0"
DATE: 09/05/2025
DRAWN: Author
CHECKED: Checker

PB0.4

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1 **PB ROOF PLAN**
1/16" = 1'-0"

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134 PLEASANT STREET

PORTSMOUTH, NH 03801

PROJECT NO: 1028

OWNER
Double Mc, LLC
134 Pleasant Street
Portsmouth, New Hampshire 03801

CIVIL ENGINEERING
Haley Ward
200 Griffin Road, Unit
Portsmouth, NH 03801
(603) 430-9282

LANDSCAPE ARCHITECT
Terra Firma Landscape Architecture
163a Court St
Portsmouth, NH 03801
(603) 531-9109

ROOF PLAN

SCALE: 1/16" = 1'-0"
DATE: 09/05/2025
DRAWN: Author
CHECKED: Checker

PB0.5

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1 **PB EAST ELEVATION**
3/32" = 1'-0"



3 **PB SOUTH ELEVATION**
3/32" = 1'-0"

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603.988.0042
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134 PLEASANT STREET

PORTSMOUTH, NH 03801

PROJECT NO: 1028

OWNER

Double Mc, LLC
134 Pleasant Street
Portsmouth, New Hampshire 03801

CIVIL ENGINEERING

Haley Ward
200 Griffin Road, Unit
Portsmouth, NH 03801
(603) 430-9282

LANDSCAPE ARCHITECT

Terra Firma Landscape Architecture
163a Court St
Portsmouth, NH 03801
(603) 531-9109

SOUTH - EAST ELEVATIONS

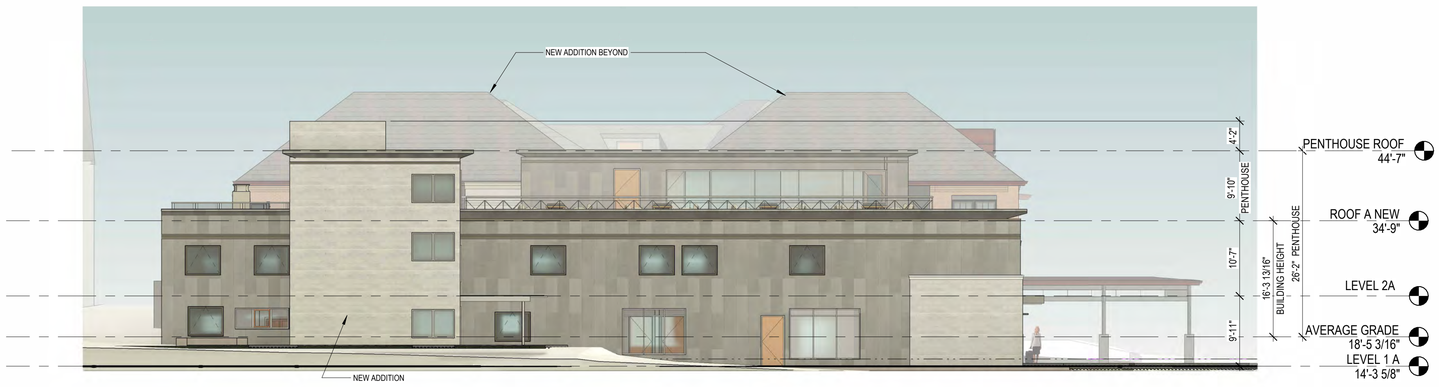
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DATE: 09/05/2025
DRAWN: Author
CHECKED: Checker

PB1.1

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1 **PB NORTH ELEVATION**
3/32" = 1'-0"



2 **PB WEST ELEVATION**
3/32" = 1'-0"

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134 PLEASANT STREET

PORTSMOUTH, NH 03801

PROJECT NO: 1028

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Portsmouth, New Hampshire 03801

CIVIL ENGINEERING
Haley Ward
200 Griffin Road, Unit
Portsmouth, NH 03801
(603) 430-9282

LANDSCAPE ARCHITECT
Terra Firma Landscape Architecture
163a Court St
Portsmouth, NH 03801
(603) 531-9109

NORTH - WEST ELEVATIONS

SCALE: 3/32" = 1'-0"
DATE: 09/05/2025
DRAWN: Author
CHECKED: Checker

PB1.2

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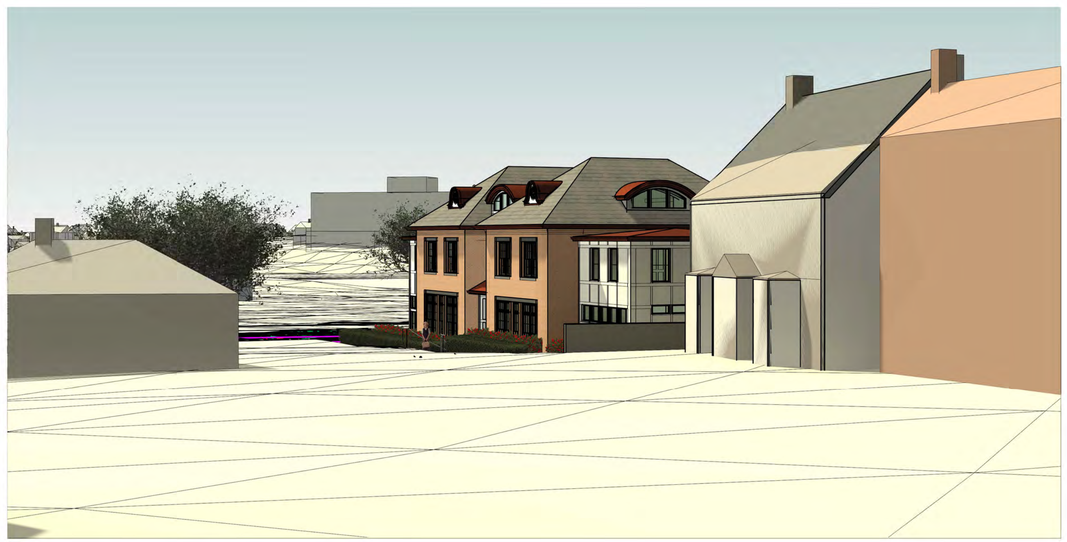
1 VIEW FROM LANGDON HOUSE PB



2 VIEW FROM JUNKINS AVENUE AT CITY HALL PB



3 VIEW FROM PLEASANT STREET AT JUNKINS AVENUE PB



4 VIEW FROM PLEASANT STREET AT TREADWELL HOUSE PB

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134 PLEASANT STREET

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(603) 430-9282

LANDSCAPE ARCHITECT

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163a Court St
Portsmouth, NH 03801
(603) 531-9109

VIGNETTES

SCALE:

DATE: 09/05/25
DRAWN: Author
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2 3D View SE BOA



3 3D View SW BOA

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134 PLEASANT STREET

PORTSMOUTH, NH 03801

PROJECT NO: 1028

OWNER

Double Mc, LLC
134 Pleasant Street
Portsmouth, New Hampshire 03801

CIVIL ENGINEERING

Haley Ward
200 Griffin Road, Unit
Portsmouth, NH 03801
(603) 430-9282

LANDSCAPE ARCHITECT

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163a Court St
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VIGNETTES

0' 4' 8' 16'
SCALE:

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IN RE:

AUDIO TRANSCRIPTION OF RECORDED PORTSMOUTH ZONING BOARD OF ADJUSTMENT MEETING

SPEAKERS

CHAIRWOMAN PHYLLIS ELDRIDGE

VICE CHAIR BETH MARGESON

DAVID M. RHEAUME

JEFFREY MATTSON

FRANCIS XAVIER BRUTON, ESQ.

JOHN CHAGNON

TRACY KOZAK

THOMAS NIES

PETER SMITH

ELIZABETH BRATTER

PATRICIA BAGLEY

JILLIAN HARRIS

PAUL MANNLE

BOARD MEMBERS

ERIN PROULX

(RECORDED AND TRANSCRIBED)

CHAIRWOMAN PHYLLIS ELDRIDGE: This is new business. A, request of Double Mc LLC owners for property located at 134 Pleasant Street whereas relief is needed for redevelopment of the existing commercial building and construction of horizontal and vertical building expansions for a mixed-use building with below-grade parking and the relocation of drive-through teller lanes, which requires the following.

One, variance from Section 10.440, use number 19.4 for a drive-through facility as an accessory to a permitted principal use.

And two, variance from Section 10.331 to change the location and use of the drive-through facility. Said property is located on Assessor Map 116, Lot 30, and lies within the Character District 4 in Historic District.

Good evening.

FRANCIS XAVIER BRUTON, ESQ.: Good evening, Madam Chair, members of the board. My name is F.X. Bruton. I'm with Bruton & Berube in Dover. I'm here representing the applicant.

And with me tonight, Marie Bawdy, from the applicant, representative John Chagnon, the project

engineer, and Tracy Kozak, the project architect.

So if you have any questions that I can't answer, obviously, they're here for your benefit. And we appreciate your time tonight and rescheduling your busy agenda to meet again. So I appreciate that. Thank you.

This is a project that is located on 134 Pleasant Street, and it's the existing Citizens Bank building. It's a rather unique property in that it's over -- in terms of its size, it's over an acre of land located basically in that downtown acre, its downtown area, it's 1.22 acres.

And it's also unique in that it's located near the Parrott Street parking lot, which is obviously a large parking area. And along Parrott Street really has no abutter, if you will, in terms of being affected by what we plan to do, which is, to put it simply, we're going through a process of developing that property and moving, and adding vertical and horizontal addition to the existing -- what's -- what exists on site.

So we're going to kind of, if you will, infill that area that is between the existing drive-through and Pleasant Street. And by doing that, we -- and that was suggested at our -- the planning board

when we went for preliminary consultation.

In doing that, we would need to take this drive-through, which we understand -- the property was first used as a bank in 1982. We understand the drive-through has been in basically that configuration for decades. When you passed your Character-Based Zoning, 2015, drive-throughs became prohibited use for the C4 and C5, and we're in the C4.

I think it's fair to say there are kind of two kinds of drive-throughs. Those that are the -- like the one we have, which I think is fairly benign in terms of pulling up to a window, and then those where someone is sitting in a fast-food restaurant asking for orders, and probably in a more boisterous way than how people conduct their business with the bank.

But in any event, if you know -- you know the configuration is that the drive-through is located right at a point where it faces Pleasant Street, and in order to bring our building plan and bring the building up to Pleasant Street, we need to rotate the location of that drive-through.

It currently consists of two lanes and two teller transaction opportunities. And we're basically going to rotate that away from what is -- properties that have basically inhabited use and pointed towards

the parking lot, which hopefully you would agree would be certainly better off in terms of any interaction that that use could have with any of the surrounding properties.

What that also does is it gives us an opportunity to bring that property more in compliance with respect to the character-based zoning that has a build-to line of ten feet. We're about 100ft away.

We intend to bring the building up to that build-to line. We intend to activate that area so that where you do not have it, you would have a pedestrian-friendly access point to go up and down in front of that area.

And so that we see as a -- obviously a significant benefit to -- doing that. We also would eliminate the drive-up lane in that area, which is an existing curb cut on Pleasant Street as well.

So you'd have a much more esthetically pleasing viewpoint if you were coming down the street on Pleasant Street. So we see all those as very, very positive things in terms of what this does. And again, we're rotating this basically from that position to the other position.

What we'll need to do is, and the staff pointed out, we'll need to go to the planning board,

obviously, we need to go to the HTC as well and TAC, and we'll go through all those processes. And a lot of questions that may come up, hopefully, will be part of those presentations in that process.

So in terms of just the criteria, I'm going to address the public interest in spirit of the ordinance, which considers whether this granting of this relief would alter the essential character of the locality or threaten the public health and safety.

And we really see this as addressing safety issues, because if you look at the existing conditions plan, you'll see that there's an area of parking located in between Pleasant Street and the drive-through and what that does, the only way you can get to the bank is actually walk through the drive-through lanes.

And again, as I explained, we're going to rotate away from the abutting uses that might have some current interaction with the existing drive-through. So that I think really speaks to -- again, the -- are we going to alter the essential character vis-a-vis where is the drive-through located?

And we believe that we're going to have, again, two lanes, two transaction windows. And so we don't see that as altering the character, we see the

activation of Pleasant Street being in the public interest.

And certainly spirit of the ordinance being observed providing for a safer access to the building so you don't have to walk through those drive-through lanes and eliminating a curb cut on Pleasant Street as well.

Granting the relief requested, would that do substantial justice? That test does consider the present use of the property. Again, this is, we believe, just changing the location of an existing non-conforming use that's been there for decades, doing it in a respectful way, doing it in a well-thought-out way.

We still have to obviously go, as I said, to HTC and planning board. So staff asked us to put a note on the plan that the actual configuration of the buildings would change. But what we also wanted to do was pay attention, particularly, to the performance standards of a drive-through had it been permitted.

And so we did do that. There are certain setback requirements that we are required to meet for any drive-through, and we do meet those. And we considered all of that in terms of trying to design this in a way that would work, but also would not

impact the public in any way.

And so in terms of substantial justice, there's this balancing test of harm to the applicant versus, basically, the harm to the public, and we would respectfully submit that this does not harm the public.

In fact, it increases the safety as I mentioned, and we are basically pointing this use, which I don't think is going to be that offensive, but we're pointing it towards the -- one of the bigger parking lots in that area.

Diminution in value. Again, I think this will result in significant esthetic upgrades. We're going to be, again, becoming more conforming vis-a-vis the yard area that we have.

We currently, again, are about 100ft back from Pleasant Street. We'll bring this building up to the build-to line, and again, create that walkway and that activation that we think will be a positive benefit vis-a-vis any values of the surrounding properties.

And last is the unnecessary hardship. And again, let me start your focus on, is this a unique parcel? And as I've mentioned, it's a very large size for that area, 1.22 acres. It's located near the downtown.

And again, it's located just adjacent to one of the bigger outdoor parking lots in that area. And it currently has, if you -- it's unique in that it has this existing use already.

A few banks in the city, in a more downtown location, have those as well, and we highlighted that in our application. So we think it's a unique area, and we think that location of this, as we've explained, assists again in terms of the esthetic aspect of this. The impact to the surrounding properties that have habitation or use.

And so we think that all of those things lead to the sense that we are basically being consistent with the ordinance. But again just simply trying to rotate that element of that existing non-conforming use and doing it in a respectful way and a well-thought-out way, and one that, again, will have to go through a review.

But we wouldn't -- we would continue to anticipate that we will always be meeting the performance standards that are set forth within the ordinance vis-a-vis the requirements for drive-throughs.

So that's our plan. And again, we hope that you can grant that relief and then we'll move forward.

VICE CHAIR BETH MARGESON: Question.

CHAIRWOMAN PHYLLIS ELDRIDGE: Yes, Ms. Margeson.

VICE CHAIR BETH MARGESON: So looking at this plan, it looks like the vehicular access to the property, including the surface parking spaces and the garage, I think is going to be underneath the building?

FRANCIS XAVIER BRUTON, ESQ.: Yeah, and I apologize, I meant to mention that as well.

VICE CHAIR BETH MARGESON: Okay. So it comes in through the same area as this proposed drive-through?

FRANCIS XAVIER BRUTON, ESQ.: Yes.

VICE CHAIR BETH MARGESON: Okay. And this is -- there's a lot of pedestrian traffic around this area because of the Parrott Avenue lot and going down to the courthouse and whatnot.

So the only way the pedestrians really will be able to cut through this property, frankly, is through that same -- through that same new entryway. So this is how pedestrians, and the drive-through customers, and vehicular traffic will be accessing this property?

FRANCIS XAVIER BRUTON, ESQ.: Well, we're going to have walkways from Pleasant Street that will

avoid that if pedestrians are walking in that direction, which are depicted on the plan.

And also all the parking, basically, for someone who actually wants to go into the bank is going to be along the side of the -- that portion of the building, but with access again to sidewalks that they currently didn't have.

So we think we're definitely enhancing that aspect of it. And of course, you know, drive-throughs, even though they're not permitted, certainly help with parents, with kids, the elderly, the disabled. So we still obviously want to provide that, and a lot of banking now goes on in that fashion.

So the performance criteria that is set forth is something we were asked to pay particular attention to. And those -- all those criteria are met in terms of the design that we have in that -- on the plan.

VICE CHAIR BETH MARGESON: Okay. Thank you. My concern is that it's combined with, basically, the driveway into the property.

FRANCIS XAVIER BRUTON, ESQ.: Yeah. I mean, we do have a deeded access point through the parking lot as well. But the main intent would be to come down in that fashion and then park in that

location.

And, John, you can speak more to that as well.

JOHN CHAGNON: Thank you, F.X. John Chagnon from Haley Ward. If we can go to the existing conditions plan, I think you'll see that there exists, currently -- and what you're talking about are the people from the Parrott Avenue parking lot cutting through this property, and there is one spot -- keeps jumping around on me there. Sorry.

There is a significant hedge here that prevents that, and then there's a landscape area here that prevents that. So there is one set of stairs here that people can walk through.

But I think the predominant pedestrian movement from the paradigm of the parking lot would either be out here or should be out here to the street or out here to the back alley up there.

So I don't think that people have a right to cross the property as a matter of right. There could be a fence put up there if it became a safety concern.

The driveway layout, if you go to the proposed site plan, has plenty of room to maneuver for the cars coming in and out. That would be -- the main entrance would be Pleasant Street. That -- start to

answer that question in a way?

VICE CHAIR BETH MARGESON: Yes. And I just have a --

CHAIRWOMAN PHYLLIS ELDRIDGE: You can go.

VICE CHAIR BETH MARGESON: Okay. Just a follow-up question. So you would open up the access and relocate court parking. What does that mean?

JOHN CHAGNON: Core parking -- relocate core parking?

VICE CHAIR BETH MARGESON: Court.

JOHN CHAGNON: Court, oh. Oh, okay. Sure. So the situation right now, go back to the existing conditions plan, is the property -- the city of Portsmouth owned the entirety of this going out to Pleasant Street to Parrott Ave, and they then sold off the courthouse lot and kept -- there was a -- there's an access here that was deeded to the courthouse lot.

Now currently in the subject property, the entrance, pretty much in the same location existing as proposed. But you come down here and then there's this awkward turning movement here that allows you to exit either into the Parrott Avenue parking lot or out to the courthouse property.

And if you go to the proposed, what we're proposing is to align that, take out the awkward

turning movement, if you could go up just a tad with the view. And then that allows this to have a couple more parking spaces added to the Parrott Avenue parking lot.

It would also create a situation where people coming from Court Street, they currently tend to or may go through private property. The PHA housing project to get to Parrott Avenue parking lot in a more expeditious manner would be, hopefully, discouraged from doing that because they can't just come down and bop into here. They got to go all the way out and then come back around.

So that design feature was brought to the planning board concept meeting and discussed and in general was, I believe, favorably received. So does that answer that?

VICE CHAIR BETH MARGESON: Yes, thank you.

JOHN CHAGNON: Okay. Thank you.

CHAIRWOMAN PHYLLIS ELDRIDGE: Anybody else? Question?

Yes, Mr. Rheaume.

DAVID M. RHEAUME: Thank you, Madam Chair.

So question. I -- this does have to go to the Historic District Commission. Where are you at in that process, and if it has started, what feedback have

you received on the roof cover over the drive-through?

FRANCIS XAVIER BRUTON, ESQ.: Yep. I will let Tracy answer that. But I will also point out there's actually a performance standard with respect to the roof, the canopy over the drive-through, which we looked at and meet as well.

So that actually is met per the zoning. But I'll let Tracy give you a little bit more info on that.

TRACY KOZAK: Good evening. Tracy Kozak.

Yes, we've had one work session, and we took some feedback -- well, we had two work sessions. The first one was a more contemporary design. They didn't like that. We came back with this more traditional design, which was received much more favorably. We had a number of more detail oriented comments at that time.

And that earlier version was a little bit different than what we're showing now. We've put HTC on hold just temporarily to get your feedback, and with your feedback, we will then respond accordingly and proceed with further HTC reviews.

DAVID M. RHEAUME: Okay. Thank you. My next question, if I may continue.

CHAIRWOMAN PHYLLIS ELDRIDGE: You may.

DAVID M. RHEAUME: So looking at your Level 1-floor plan, your drawing PB-0.2 on Page 40 of

our packet, lists the back portion -- first floor of the back portion of the combined building, which I believe is to be the footprint of the existing building as a retail space.

Trying to understand -- and again, you know, we don't allow -- part of the driver for not allowing drive-throughs in these districts is to make it a more pedestrian-friendly experience. I know you mentioned like, well, you know, there's good drive-throughs and bad drive-throughs, this is the good drive-through kind.

But, you know, the issue with ones that have speakers and whatnot or louder speakers really even banks the -- have some speaker capability. We have a setback in our ordinance from residential uses that covers that eventuality.

FRANCIS XAVIER BRUTON, ESQ.: Yeah.

DAVID M. RHEAUME: What -- in my mind, what the character districts are really trying to do -- drive is a pedestrian-friendly experience which drive-throughs traditionally are not amenable to.

So towards that end, I'm trying to understand what do you see as the pedestrian paths to get to this retail that you have in the back part of the new combined building?

JOHN CHAGNON: So if we can go to the site plan again, the pedestrian experience is one of access. If you're coming down Pleasant Street, this is access here that will take you to that retail and also to the -- I believe, to the residential.

And then further down Pleasant Street, you have access here to the banking facility and here to the banking facility. And then there are parking spots here that would be accessible to that retail facility.

This way, the residents -- as mentioned, there's an underground parking. So the bank employees and residents would go into that and access interior to the building.

And there's also going to be additional -- there is access here through an easement that goes between the Portsmouth Fire Station and the fire condominiums, as they're called, or the old fire station condos. And there'll be some connections there with the pocket park that would enhance that pedestrian experience. But people now walk up there from Parrott Avenue parking lot.

DAVID M. RHEAUME: Okay. So you're indicating that the primary way of getting to that retail space is to walk down that alley, basically?

JOHN CHAGNON: If you're a pedestrian.

DAVID M. RHEAUME: Right. Pedestrian. I'm talking pedestrian access. Yeah.

JOHN CHAGNON: Yeah.

DAVID M. RHEAUME: Is there any access on the parking lot side?

JOHN CHAGNON: Yes.

DAVID M. RHEAUME: To that retail space?

JOHN CHAGNON: Yes, you'll see there's a sidewalk at the edge of the parking spaces, and then there's an entrance here.

DAVID M. RHEAUME: Okay. My last question is, sometime in the past year, I can't remember exactly when, I couldn't find it searching through, but there was a decision that this board made to allow this lot to serve as a parking lot for another property that was owned by the same owner. What is the status of that? I don't know if you have the information on that or not. And how is that parking requirement incorporated into this current design?

FRANCIS XAVIER BRUTON, ESQ.: Yes. There's, I believe, four spaces that are reserved for that, and they would be incorporated within the underground parking.

DAVID M. RHEAUME: Okay. I thought it was more spaces than that, but okay.

FRANCIS XAVIER BRUTON, ESQ.: You know, off the top of my head, because I did that agreement, it may be five?

TRACY KOZAK: It's five.

FRANCIS XAVIER BRUTON, ESQ.: Five. Okay. Yeah. It's five.

DAVID M. RHEAUME: Okay. Thank you. That's all I have.

CHAIRWOMAN PHYLLIS ELDRIDGE: Oh, sorry. Mr. Nies.

THOMAS NIES: Yeah. I just have one question. Actually, I guess I've got two.

On Page 43, the roof drawing appears to show at the bottom of the thing that you've got parking spaces in the travel lanes, I assume that's left over from the drawing that you showed at the planning board, which showed a very different layout and had 37 surface parking spaces; is that accurate?

FRANCIS XAVIER BRUTON, ESQ.: I believe it is. You can confirm that, Tracy.

TRACY KOZAK: Yeah. The roof plan is really just to show the roof. There is an underlay of the existing or older shown underneath the current there. They're overlapped. The older one shouldn't be on that.

But to refer to the site plan, I'll ask you to disregard looking at the roof plan for the parking striping. We should just turn that off completely.

THOMAS NIES: Okay. So when you made a -- not -- thank you. There was a comment made earlier that the planning board seemed to like the changes to the traffic flow that were made at the left hand, what I'm calling the left-hand side of the property --

FRANCIS XAVIER BRUTON, ESQ.: Right.

THOMAS NIES: -- the back side of the property. But they didn't see the location of the drive-through lanes as they're shown here tonight; correct. They saw the original location of the drive-through lanes, which showed them in the middle of the building?

FRANCIS XAVIER BRUTON, ESQ.: I will again defer to John because I wasn't at that hearing.

JOHN CHAGNON: Yes. So the -- as events progress, the plan that was brought to the planning board had the drive-through in the same location that it is in now, and we were mistakenly assuming that that would suffice to not have to come to this board. But the window was being moved to the other side, and that meant that it wasn't the same exactly, and there probably were other reasons why it wasn't.

So we were sort of on a -- on an assumption there that after we were informed that we would need to come to this board, we decided that there's a better location for the drive through if we're going to have to move it and get relief. This is better -- this is a better design than having to come under a building. We eliminated a curb cut on Pleasant that was problematic, we believed.

And so in addition, the other plan did have the access to that coming down the property line. And so I think in hindsight, it wouldn't meet the 30-foot drive-through lane separation. So there were some other things that actually didn't comport to the way the ordinance was written.

THOMAS NIES: Great. Thank you.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay. Excuse me, did you just say third drive-through lane?

FRANCIS XAVIER BRUTON, ESQ.: No.

CHAIRWOMAN PHYLLIS ELDRIDGE: Oh, okay. I misunderstood.

FRANCIS XAVIER BRUTON, ESQ.: I apologize.

CHAIRWOMAN PHYLLIS ELDRIDGE: Are there any other questions? Okay. Thank you.

FRANCIS XAVIER BRUTON, ESQ.: Thank you very much.

CHAIRWOMAN PHYLLIS ELDRIDGE: Is there anyone in the public who would like to speak in favor of this plan? Anyone who would like to speak in opposition.

PETER SMITH: Hi. My name is Peter Smith. I live at 206 Court Street. I'm an abutter. I also represent the 160 signatures on the pause-portsmouth.com petition on Change.org. All 160 signatures have been validated by change.org.

And I request that this be declined. The simple point is that it's self-created hardship. There is no hardship here. Section 10.233.31 of the Portsmouth Zoning Ordinance, echoed in the board's procedural rules, limits hardship finding to a special condition of the property that distinguish it from other properties. Neither business preferences nor site history satisfies that test. The current hardship claim that the lot historically contained to drive-through, and that the tenant desires one is self-created, arising entirely from the choice to continue the use that the ordinance no longer allows.

The board's own rules reaffirm that mere inconvenience or the need for financial advantage does not constitute unnecessary hardship. Extensions of nonconforming use violates zoning intent.

Section 10.331 provides that the law for non -- law for nonconforming use may not be extended, enlarged, or changed except in conformity with this ordinance. The applicant's plan to relocate and expand the drive-through is precisely such an extension in direct conflict with the CD4 prohibition.

There is no demonstrable hardship. The application identifies no unique site condition that prevents reasonable use under existing zoning. The claimed hardship stems from tenant preference and property size, conditions common throughout downtown and not grounds for variance. The property can readily accommodate a conforming use without a drive-through.

Number 6, public interest and precedent. Existing drive-through banks within CD4 and CD5 are grandfathered non-conformities, not precedents for expansion. Zoning reforms adopted in 2015 were designed to phase such uses out. Granting this variance would signal a reversal of that policy direction and erode confidence in the city's character-based zoning system.

Next, neighborhood character and safety impacts. Relocating vehicle circulation toward the Parrott Avenue lot and residential edges increases vehicle idling and emissions.

Next, substantial justice and property value. Denying this request would not diminish the value of their property. They have no claim to hardship, and it should be denied as a result.

Again, this is pause-coliving.com. It's a change.org -- it's a petition signed by 160 residents. All validated. Thanks.

CHAIRWOMAN PHYLLIS ELDRIDGE: Thank you.

Anyone to speak to, for, or against?

ELIZABETH BRATTER: Good evening. Elizabeth Bratter, property owner, 159 McDonough. I'm speaking to, for, or against this variance, you get to decide.

Drive-throughs are not allowed uses in CD5 and CD4 zoning. Of course, the purpose of coming here is to request a variance. In this case, the decision cannot be made in a vacuum. All aspects of this property and the surrounding area must be considered.

Most of the drive-throughs in downtown that already exist have been here since the 1980s. This lot currently has a drive-through. However, the bank and the drive-through are proposed to be moved to the front of the lot, which is currently a parking lot. And they will be facing and abutting historical things on Pleasant Street.

This lot sits in the very historical part of Portsmouth and is in the Historic District. With quite a few historical homes next to and across the street, some have been very meticulously reconstructed in just the last year or two.

Drive-throughs are not necessary for banks. There are thousands of banks inside of Walmarts and grocery stores throughout New Hampshire and the country. They are visited regularly, yet they do not have a drive-through.

Moving banks inside of stores has been a growing trend over the last few years. The other change in banking has to do mostly with automated interactions such as taking pictures of checks for deposits, transferring funds between accounts, paying your rent online, all by cell phones or computers.

So what does the future hold? Do we need drive-throughs? The problem with the proposed drive-through is the most recent location that they have showed, will remove the originally proposed somewhere between 20 and 30 parking spaces on this lot, and leave around 11, for both the bank and the proposed retail space.

Have you ever been to the TD Bank in downtown? They have 24 plus spaces that are guarded

most of the time, and they are full, and they don't have a retail location. So what's going to happen when you put a 10,000 square foot retail location next to a seven to 10,000 square foot bank?

The drive-through could have very many unintended consequences for the neighborhood, as well as the parking problem that already exists in the parking -- the Parrott parking lot. Say that five times fast.

These two commercial units will need to provide around 60 parking spaces, which means they will be short at least 49, by adding the drive-through as proposed. This development is not in the downtown overlay district. So 60 spaces means 60 spaces.

How do developers explain not needing parking spaces for oh, so many developments around town? Everyone will walk, they'll take the bus. They know how to get to the location on the bike. So what if we have winter? They don't need the space.

In this case, why would you need a drive-through if everybody's walking, riding their bike and taking the bus? There are some key aspects of the proposed drive-through needs to be considered when you look at the criteria for the variance.

Location. Not only the -- for the drive-

through itself, but also for the bank and the Historic neighborhood. How will the drive-through impact all of them? Is it really necessary?

If the drive-through is needed, more of the parking -- more of the required parking should be provided as well, because that says driving is necessary.

If this drive-through is to be approved, it should include some very specific stipulations relating to the location and it not taking up any more parking spaces, such as putting it under the building like you would in a hotel. That it be located in a way that does not interfere with the historic nature of Pleasant Street, like everybody driving by from Pleasant to Parrott wants to look at that drive-through.

Please include that if the lot is a drivable lot that they need to find more parking, which is required. It is not just the criteria, it is how they are applied to the conditions of this lot.

It is trusted that all aspects of this lot will be considered when reviewing the variance for the drive-through. Thank you for your time.

CHAIRWOMAN PHYLLIS ELDRIDGE: Thank you.

Anyone else to, for, or against?

PATRICIA BAGLEY: Patricia Bagley, 213

Pleasant Street. I am speaking against the request for a waiver.

I can't speak to the technical details that you were used to in making your decision. I have studied the diagrams, I've walked the property, I walk it many times because I live just down the street.

And this doesn't seem safe to me. What's being proposed is seems like a hodgepodge. When you walk there now, even though the Citizens Bank itself is ugly, it's -- this -- the drive-through is set back, and it -- you really don't even notice it. It's -- the landscaping just gives it a very calm appearance.

And so what they're proposing is moving this kiosk way up front. And then there's a landscaped area in the middle, and it just seems to me like to be very unsafe, too many drive-throughs.

They often speak of the Parrott lot. Well, the Parrott lot doesn't belong to this developer. It is -- belongs to the city. And so speaking about using -- driving through there, driving around the back, it just -- I think is just overextending, and I'm speaking against this. Thank you very much.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay. Thank you.

To, for, or against?

FRANCIS XAVIER BRUTON, ESQ.: I'll defer to any other abutter if they want to come up before me, but just to respond to a few things.

The drive-through exists. So it's already there, and we're talking about moving what is an existing non-conforming use. We're not talking about creating a new element to this area where it doesn't already exist.

Obviously, I think the board understands that we'll have parking underground, and the employees in addition to the residents would be there. So that issue really is -- shouldn't be the driving force here.

I think to that -- to maintain the driveway or drive-through makes sense because if the intent is to eliminate it, you've then taken away something that actually reduces the stress of any parking situation. So that they drive-through and take care of the business they have, or a parent with kids or disabled or elderly, and so they don't have that negative consequence on the parking aspect.

And just to address some of the other issues. Often people come up to you and say there's no hardship. But the test isn't really, is there a hardship? It's an unnecessary hardship? And that's in the statute and that's in your application and that's

the test. It's not, is there a hardship?

The question is, is there -- are there unique characteristics of this property that would then allow the use, and would it be consistent with the spirit of the ordinance to allow the use?

And if that is the case, it would be unnecessary to apply the restriction to the applicant, and that's kind of how that reads. But people don't express it that way.

And in this case this is entirely unique. We don't own the Parrott Street parking lot, but the location is unique. It is in an area where a large parking lot exists.

And when you think of the issue of the access, we're going to make the access better, if you will, in terms of eliminating the drive-throughs that are nonconforming, the drive lanes. But we're going to -- we're also going to result in a more conforming structure being built to the line and all of that.

But if you look at any negative consequence of any drive-through, if it's interaction with the public, this is moving it from an area where it's closer to public uses -- people uses, if you will, and pointing it in a direction away from that.

So it seems to us that it would be

reasonable to find that this is unique, particularly because we're talking about an existing use, and we're making that better. And not only because of what I just said, but again, what I said earlier in that the current use requires pedestrians to walk through the drive-through lane. And that obviously is a safety issue that we are addressing by not having that be the case, and then adding all the other pedestrian points of access to the building that John described for you.

So I think all in all, it's unnecessary to apply the restriction in this instance because of those special conditions of this property, its size and its location and its ability to offer all of those more conforming elements just by moving the existing use from one point and pointing it to another point. Thank you.

CHAIRWOMAN PHYLLIS ELDRIDGE: Thank you.

DAVID M. RHEAUME: Madam Chair, may I ask a question?

CHAIRWOMAN PHYLLIS ELDRIDGE: You may.

DAVID M. RHEAUME: Thank you.

So could you just explain a little bit more, because there's really not a lot of information in our staff memorandum on the parking. I know it's kind of been indicated by some of the interested parties that

you are substantially below what you need for parking. And there's a reference that you might be seeking a parking conditional use permit from the planning board.

Do you have any assessment on what your parking is? Obviously, we know five spots are dedicated to another property. What's the remaining, and do you think you will be having to go for a conditional use permit?

FRANCIS XAVIER BRUTON, ESQ.: I think our point of reference with the staff was, in order to get to the HTC so that they can now make a more informed decision, they need to understand if we can just rotate this. It's very kind of simply said only that way.

How the design elements change and the parking needs change will likely be a part of that process, but we don't anticipate if we need to ask for any parking relief from a CUP process on the planning board that it would be significant.

I can tell you that with due respect to an -- to the abutter that she looked at the surface parking, but did not incorporate in that analysis the underground parking, which will be significant at all. So we will not be 60 spaces short because there was no calculation in that presentation of the underground parking.

DAVID M. RHEAUME: Okay. Thank you.

FRANCIS XAVIER BRUTON, ESQ.: Thank you.

CHAIRWOMAN PHYLLIS ELDRIDGE: Thank you.

JEFFREY MATTSON: Phyllis.

CHAIRWOMAN PHYLLIS ELDRIDGE: Oh, I'm sorry.

JEFFREY MATTSON: All right. Yeah. I just have a question.

I was just wondering if you could answer the net -- whether the net change in asphalt is increased or decreased with the change in orientation of the drive-through, specifically the asphalt dedicated to the drive-through only as opposed to for the parking.

FRANCIS XAVIER BRUTON, ESQ.: Right.

JOHN CHAGNON: Well, I don't know if I can granulate it down to the last part of your question, but the site, as we've looked at the open space, will be well above like twice what the requirement is in open space. And so we're confident that that will be appropriate and that we can handle the drainage that's going to be generated.

JEFFREY MATTSON: Okay. I --

JOHN CHAGNON: Right now, whether it's an increase or decrease, I think some of that depends on the final surfaces, but definitely we'll have about

twice as much open space as is required.

JEFFREY MATTSON: Okay. I guess -- yeah. So my line of thinking was that we have a current existing drive-through with a certain orientation that requires a certain amount of asphalt dedicated to that drive-through, and with this new orientation, whether or not there was more or less asphalt dedicated to that drive-through.

JOHN CHAGNON: Okay. Yeah. I think I can say for sure that that existing, if we want to go to the existing plan, dedicates more real estate because the drive-through comes off and all of this pavement here is needed to access it. So that's reduced now to a little loop out here.

And in fact, the -- if you go to the proposed site plan, really the area dedicated to the drive-through is here, and this plan is at a different scale than the other one. It looks bigger because it's 20 scale, the other plan is 30 scale. So I can -- I think I can say quite clearly that there's less pavement dedicated to the drive-through.

JEFFREY MATTSON: Okay. Thank you.

JOHN CHAGNON: And the drive-through has a pretty specific queue, three cars. The bank has studied this extensively. Not only do they need the

drive-through as it is something that the customers want, it is a feature that they need to have.

They know that if there's three cars in the drive-through queue that people are going to use the ATM lane, or they're going to park and go inside. So that is appropriately sized. If that helps, also answer the question.

CHAIRWOMAN PHYLLIS ELDRIDGE: Thank you. Okay.

VICE CHAIR BETH MARGESON: I just --

CHAIRWOMAN PHYLLIS ELDRIDGE: I'm sorry.

VICE CHAIR BETH MARGESON: I just have one follow-up question, if I could with John Chagnon, unless other -- I don't know if other people want to speak or --

CHAIRWOMAN PHYLLIS ELDRIDGE: (Indiscernible).

VICE CHAIR BETH MARGESON: Okay. So you had talked about the planning board being in favor of vehicular -- the betterment of vehicular circulation down that -- the -- near the courthouse. Did you say that the vehicles came in off Court Street?

JOHN CHAGNON: So currently if you go down Court Street, you can take a right turn before the Portsmouth Housing Authority building and go around the

back of it, and you'll end up in this lane here behind the new building, and you can drive out. And there are signage there that discourages it. But I can tell you from the staff that operates that facility, that people ignore the signage, and they cut through that way.

VICE CHAIR BETH MARGESON: Okay. I thought that that road was eliminated when the new workforce housing came online. So -- okay.

JOHN CHAGNON: No. It was needed to provide circulation for the fire department. So you couldn't just cut it off.

VICE CHAIR BETH MARGESON: Okay. Thank you.

CHAIRWOMAN PHYLLIS ELDRIDGE: Anybody else? A last call, to, for, or against.

ELIZABETH BRATTER: Are you going to allow second time speakers or not?

CHAIRWOMAN PHYLLIS ELDRIDGE: Excuse me?

ELIZABETH BRATTER: Are you going to allow second time speakers or not?

CHAIRWOMAN PHYLLIS ELDRIDGE: You may come. Yeah.

ELIZABETH BRATTER: Elizabeth Bratter, property owner, 159 McDonough Street. I thought I'd clarify the parking. There are 46 units proposed, I

believe two penthouses on the roof, if I did that right, 41 parking spaces, most of them tandem in the basement.

Retail space outside of the DOD requires, I believe, one spot for every 300 square feet. It's a 10,000 square foot place. That's 33 more parking spaces.

The bank has proposed -- was originally proposed as 7,000 square feet, now it's 10,000 something square feet, which again would need -- they have a different criteria, I believe it's one for every 350, but pretty much another 30 spaces.

So you're talking that they really need 100 spaces. They are providing 41 of which five will be used by someone else.

According to this, I counted 11 spaces on the ground outside. They will not only need a variance or a CUP or whatever you want to call it, they're going to need a lot of reasons for not using the parking.

The building design could be modified to incorporate that drive-through like hotels run that it's kind of like an entrance in and out. I'm not the designer. I know they have one of the best architects in the city here that would probably be able to come -- who would probably be able to come up with something

for this.

You could also flip-flop the buildings and put the bank on the back, but maybe the bank wants to be on the front. Retail might be nice and residential on the front and the back have the bank.

But that's just my thoughts outside of the box in regards to the drive-through. I trust that you will keep that in mind, that if the drive-through is designed the way it is, that's 11 more parking spaces off of that lot that have to go somewhere. Thank you.

CHAIRWOMAN PHYLLIS ELDRIDGE: Thank you.

To, for, or against? Public hearing is closed.

THOMAS NIES: I just want to offer one comment since we've spent a lot of time on parking. You know, if you go back and look at what was presented to the planning board, which admittedly was a little bit different than what we're looking at here, the package that they prepared back then and says that they expected that there would be a total of 83 parking spaces and the total required was 46. So that also said that they had 37 outside, which they don't have now. I think they've got 11 outside.

So I believe one of the applicants said they thought they would have an excess, but based on what

they presented to the planning board, it does look like they have a small excess of somewhere between five and ten spaces on the design.

I just don't want us to get too hung up on exactly what the parking requirements are, because that's -- I'm not sure that's really before us today anyway.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay. Thank you.

Mr. Rheaume?

DAVID M. RHEAUME: Thank you, Madam Chair. Yeah. So some thoughts.

You know, I do think that it was quite intentional in our ordinance to eliminate the allowance for drive-throughs. In the CD4 and CD5, I think there's a desire to move the downtown core areas away from a car centric way of life and more towards pedestrian and other types of, you know, transportation, bikes and whatnot.

And, you know, certainly many other things we talk about with not requiring as much parking within downtown structures is also some of the mindset -- same mindset there. Let's go and put cars in some centralized garages and have it be more of a pedestrian experience.

That said, obviously, there's people with mobility issues. You have to have some level of accommodation for folks along those lines, but the goal is to try and reduce it.

And I guess -- so the lens I'm putting this through, I would agree with the applicant's argument that one of the unique characteristics of this property, it is abutted up against a city parking lot. Nothing that we anticipate ever being developed in any way.

So that is something that's different about this property relative to the others in the CD4 and CD5 that kind of says, yeah, maybe a drive-through use could be something that could be recreated here.

My more fundamental concern with this -- what's proposed here is that I really do think it segregates off the pedestrian experience that -- which is really to the key of, again, what I think the zoning ordinance is trying to accomplish. And that I think it creates sort of an island for the back property. I know that the applicant tried to make the argument, well, we got the alley way that comes down that can get you some access into the retail space.

But looking at their drawings, there are two stairwells that they have for the residences in the

back structure, which will be pretty full. I mean, it's proposed to be a coliving arrangement.

One of those stairwells is immediately adjacent to the drive-through -- proposed drive-through location. That one is on the back side of the property, closer to the -- sort of that fire station pass through, which -- again, really, that isn't like a naturally -- people wouldn't necessarily think, hey, I'm going to go down -- walking down this Haley alley way to go get to either where I live or whom I'm visiting with there.

So some -- maybe not all the residents. Some of the residents will go in and use the parking and go up the stairwells or take the elevator that way. And I do like where the actual entrance to the underground parking is located. It's on the back end of the property. Again, sort of away from where the pedestrian flow would be coming off of Pleasant Street.

But I really do think that the drive-through that is being proposed here cuts that flow. Yeah, you can put some crosswalks in, but it's just not going to be a natural experience to want to walk through that area, to go and get to those natural pedestrian corridors in the back.

In terms of parking, I mean, if they're so

completely -- I would agree with Mr. Nies. I mean, first of all, the planning board has taken that away from us. They don't want us to have it anymore. That's fine. Go and have it.

But again, if they're off by, you know, dozens and dozens of spots, they would maybe add like ten spots maximum by eliminating the drive-through. So I don't think that's a consideration here. To me, it's really coming down to how does this set the property up in terms of a pedestrian experience?

And I think that if, you know, the -- we were sort of reversed where you had the -- more residential use up in front with another sort of non-bank use up there and then maybe put the drive-through way at the back. Maybe that might make some more sense where it's more of a car centric corner of the property, you know, next to the courthouse parking, next to the city's parking.

But stuck right in the middle here, I'm just having a very hard time saying that that would -- that is, you know, just goes against the fundamentally what we're trying to accomplish with the ordinance.

JILLIAN HARRIS: There is an attendee online that you had missed, that I (indiscernible).

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay.

JILLIAN HARRIS: If you guys want to reopen the public hearing.

CHAIRWOMAN PHYLLIS ELDRIDGE: There is someone online, and the request is to open the public hearing again for this person. We missed -- they were there and we missed it.

VICE CHAIR BETH MARGESON: I think we need a motion to reopen.

CHAIRWOMAN PHYLLIS ELDRIDGE: Yes.

PAUL MANNLE: Motion to suspend the rules so we can open up public hearing.

THOMAS NIES: Second.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay. Now we need a motion to open the meeting again.

PAUL MANNLE: I just did.

JEFFREY MATTSON: That was a motion to suspend the rules.

CHAIRWOMAN PHYLLIS ELDRIDGE: Yeah. That was to suspend the rules.

JEFFREY MATTSON: Motion to open public comment --

CHAIRWOMAN PHYLLIS ELDRIDGE: To reopen the public hearing.

JEFFREY MATTSON: Reopen. Yeah.

CHAIRWOMAN PHYLLIS ELDRIDGE: Yeah. All

in favor?

BOARD MEMBERS: Aye.

CHAIRWOMAN PHYLLIS ELDRIDGE: Oppose now. Okay.

JEFFREY MATTSON: Do I need a second first or is it --

CHAIRWOMAN PHYLLIS ELDRIDGE: I'm sorry. I did the (indiscernible) --

JEFFREY MATTSON: Second.

CHAIRWOMAN PHYLLIS ELDRIDGE: -- the time when we're just doing a vote.

JEFFREY MATTSON: Yes.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay. All in favor?

BOARD MEMBERS: Aye.

CHAIRWOMAN PHYLLIS ELDRIDGE: Thank you.

JILLIAN HARRIS: Erin Proulx, would you like to speak on this application? You'll have to unmute.

ERIN PROULX: Can you hear me?

JILLIAN HARRIS: Yes.

ERIN PROULX: Oh, good. Thank you. I was sending messages just because I had my hand raised. Thank you for reopening.

So good evening, and thank you for allowing

me to speak. My name is Erin Proulx, 118 Pleasant Street in 99 Marne Ave. I'm both an abutter to this property and also a real estate professional, and I work extensively in the market downtown.

I'm speaking tonight to respectfully urge the board to deny the variance request for 134 Pleasant Street. While the applicant describes the proposal as an improvement, it conflicts with the intent of the zoning ordinance, the Character District 4 standards, and the city's master plan vision for walkable and pedestrian oriented downtown.

The board's own rules call for decisions that strictly follow the adopted zoning ordinance and state statutes. A variance should only be granted when every legal criterion is clearly met, not simply because a proposal looks better than where it is now.

Drive-throughs are prohibited in the district (indiscernible). They introduce car-focused activity to areas meant to prioritize people and walkability. As both a direct abutter to this and a real estate professional, I can speak directly on the impact of the surrounding property values.

Replacing the green space that's out front with a large building and a large drive-through traffic area with the pavement idling cars, this will make this

stretch of Pleasant Street much less desirable. Buyers and tenants consistently value Portsmouth's walkability, the historic character, the landscape settings, particularly down this stretch.

When those qualities are replaced with more buildings and asphalt in this particular area and vehicular circulation (indiscernible) decline both for adjacent parcels in the broader neighborhood. It's also important that the Historic District Commission previously expressed concern that this building was set too close to Pleasant Street and feels imposing because I did hear a comment or a question earlier about what the HDC thought of this, and that was a comment by public comment as well as members of the HDC. And that issue remains unresolved. And this plan, combined with the added drive-through lanes, only amplifies that impact.

Approving this variance would weaken the city's ability to uphold the very standards that define downtown Portsmouth walkability, human scale design, and neighborhood livability. In short, this project moves us further from those goals, not closer to them. I have very much appreciation for all of your work and your service to the city. Thank you.

CHAIRWOMAN PHYLLIS ELDRIDGE: Thank you.

Okay. Now the public hearing is closed again.

DAVID M. RHEAUME: We open it up and if they want to reply.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay. All right. I thought that was an exception because they weren't here. Okay.

JOHN CHAGNON: Yes. Thank you. John Chagnon again. If you could put up the site plan and I didn't respond appropriately to Mr. Rheaume's comments earlier, I think there's easy ways to actually increase the pedestrian access that you speak of, and I think I can point that out.

The -- this walkway that comes off of Pleasant Street can easily be connected to a walkway here that would then either connect this way but also connect this way. So just to point out that in the process of going through with the site plan approvals will definitely bring that into the design and try to connect through the site more appropriately.

That's less of a walk from Pleasant to the facilities than if you look at the existing walk path. It crosses a very large swath of pavement. So there would be some very distinct and short crossings, but we could add sidewalks. And thank you for allowing me to

speak again.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay. Thank you.

Okay. To, for, against?

PAUL MANNLE: Close it, please.

CHAIRWOMAN PHYLLIS ELDRIDGE: I'm going to try.

TRACY KOZAK: Tracy Kozak. If I just want to respond to some of the historic elements. The Langdon House, of course, you know, is across the street. Right now, the drive-through faces the Langdon House. In this proposed condition, it will be screened by buildings and landscaping. And, of course, it will go through HDC.

The current traffic pattern of the drive-through points the headlights right at the Langdon House. And there are photos in your packet of the historic conditions of this site, which had houses along the street. We've set it back the maximum allowed by zoning, which is ten feet maximum. We go further if we can, but that's what's allowed. Thank you.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay. Thank you.

Okay. To, for, against? Public hearing is

closed.

Yes, Ms. Margeson.

VICE CHAIR BETH MARGESON: So I echo a lot of what Mr. Rheaume's concerns are about this. I do think there was an intentionality about taking away drive-throughs. I recognize that there is an existing drive-through on the property. However, this project is a much more intense use with the redevelopment of it.

I think that this -- I know that this is a tack and planning board issue about the traffic circulation in and out, but there is a lot of pedestrians that cut around and through this property. And I think having a drive-through combined with the entrance to the property, combined to people parking in the property, people getting into the -- to the back to access the garage is really problematic from a health, safety and welfare view.

I think also what we're seeing now is that, you know, the CD4, CD5, which is more pedestrian-friendly, allows the public to kind of get invited into the property. You're going to have a huge swath on one side of this that is really going to be dedicated to the access into the property by vehicles, I understand that. But I think that adding a drive-through to it is

really problematic.

CHAIRWOMAN PHYLLIS ELDRIDGE: Anybody like to make a motion?

DAVID M. RHEAUME: I -- yeah. Okay. So not ready yet to make a motion. But just to add a couple more things. And I do appreciate Mr. Chagnon trying to put -- well, trying to make it sound somewhat better, but I still see this as a, you know, pedestrian path that's going to have to cross, you know, through an ATM queuing line, through a drive-through queuing line, through a path to get to parking garage and other parking spots. It's really not the preferred.

I mean, what we really want is, is we want to keep the pedestrian experience tight to the actual building itself; right? That creates the -- what we're trying to do is create an inviting, walkable sensibility of buildings and people interacting -- interrelating with each other. And I just -- I think that's not what would be happening here.

Second is, you know, there was talk that a, you know, a bank really needs to have a drive-through. There are several banks that are in the downtown area that are, you know, taking up spaces that do not have that drive-through, you know, and I think in a modern bank, it's not something that's 100 percent necessary.

Is it a convenience that some people still take advantage of perhaps, but there's certainly other banks that are successfully using other locations that do not have a drive-through capability.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay. Mr. Mattson?

JEFFREY MATTSON: Well, so I'm inclined to make a motion, but my motion would be to approve, and I don't know if I can convince people. So I could go forward with it, or if someone wants to make a motion to deny, we could try that one first or --

CHAIRWOMAN PHYLLIS ELDRIDGE: Does anybody have a second for Mr. Mattson?

JEFFREY MATTSON: My motion to approve. Okay. Well, that answers that.

PAUL MANNLE: At least you tried.

JEFFREY MATTSON: Well, I guess I'll just make some comments then.

CHAIRWOMAN PHYLLIS ELDRIDGE: Yes. Tell us what you think.

JEFFREY MATTSON: Okay. Yes. Okay. So big picture. You know, I heard comments both -- essentially the comments that were, oh, it's too car friendly, and I heard other comments that, oh, it's too pedestrian-friendly. I mean, I think the reality is,

it's not a zero-sum game, and it's a multimodal character district.

You can access it by foot, there's even -- there's bike racks proposed. You can access by bike, you can access by car. This, you know, the -- a lot of the character-based reasons, including the maximum of a ten-foot setback from Pleasant Street, is for the pedestrian experience. And this is moving the drive-through situation away from Pleasant Street.

I understand you can see it from -- or you would experience it through the municipal Parrott parking lot. But technically, you're not supposed to walk across someone else's property. The proper way to leave Parrott would be onto city property and easements and whatnot.

And so I think if you're going to put a drive-through anywhere -- again, this -- the only variance being asked for here is for a drive-through, nothing about parking or setbacks from streets and stuff.

And this is a unique lot. It's big. There's interesting egress scenarios. It is adjacent to the municipal lot. And to be honest, to me the -- the curb appeal from Pleasant Street is actually improved with the situation. But that's an esthetic

opinion.

And again, if drive-throughs were allowed here, all the criteria are met. It's just that drive-throughs aren't allowed. So even though there's already one here and this could be viewed as an improvement, it's just that it's not allowed anymore. Whether or not that intention was for fast-food type drive-throughs or whatever, can be debated. But yeah, I guess those are my thoughts.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay. Thank you. Anybody?

PAUL MANNLE: I'll go ahead.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay.

VICE CHAIR BETH MARGESON: Oh, I think, Mr. Rheaume. Did you have your --

CHAIRWOMAN PHYLLIS ELDRIDGE: No, he didn't.

VICE CHAIR BETH MARGESON: Oh, sorry.

PAUL MANNLE: Okay. I make a motion to deny the application as presented.

CHAIRWOMAN PHYLLIS ELDRIDGE: Is there a second?

DAVID M. RHEAUME: I'll second that.

CHAIRWOMAN PHYLLIS ELDRIDGE: Okay.

PAUL MANNLE: Having gone through this and

everybody's looking at the drive-through, and I agree with what board member Rheaume and Margeson said about the drive-through. We've tried to pack a lot on this, and it leads to some interesting questions that the drive-through is basically an afterthought to keep the bank. Considering how you designed it, you've opened up access to the Court for nine parking spaces. So now we have an access to the Court from Pleasant Street.

Don't think that was intended, and we have the access to the garage. But first criteria, 10.233.21, granting the variance would not be contrary to the public interest. No, granting the variance would be against the public interest.

As they stated before, we want to get rid of drive-throughs in the downtown. This is slightly out of the overlay district, but still the same.

Granting the variance would observe the spirit of -- no, it would not observe the spirit of the audience, as Mr. Rheaume and Ms. Margeson have already said. I don't know when this drive-through was approved because there's nothing in the record about it. Probably before I moved to Portsmouth 35 years ago.

That being said, I don't think you've met at least two, possibly three, because your hardship

narrative talks about the lot, but doesn't talk anything about why you need the proposed drive-through moved. That's it.

CHAIRWOMAN PHYLLIS ELDRIDGE: Does the second have anything to add?

DAVID M. RHEAUME: Yeah, I'll double down. To me, I mean, I can -- only needs to fill in one of the criteria. To me, it's -- it really is the first two criteria that this proposal is falling down on. Really, you know, the ordinance -- there's two things. The ordinance -- one is to sort of reflect what's currently there. But the other part is to reflect what the desire is for the future of a particular neighborhood.

And, you know, part of this is really trying to do a philosophical change which agreed that there is currently a historic eight, you know, drive-through that's on the property, but the property was also much more open.

There was -- it's much more of a -- from a car centric time. It was a time when banks just took old, empty properties because they had failed, and they were the only people that had money left. And so they built -- they took them, and they built what they needed to go and make their bank successful.

Appreciate that the applicant wants to do something with this, rebuild it. I think that ultimately the whole structure itself will be an improvement overall for this lot. I just think specific to continuing this, you know, previously allowed use but not allowed anymore because we are trying to change it is in violation of the, you know, the characteristics of neighborhood, certainly as it -- kind of as it exists overall.

You know, these aren't very many spots and most of them are old uses and really where we want it to go, where the spirit of the ordinance is trying to go for the future which is really to make things more pedestrian-focused.

The amount of parking really isn't an issue here. I would agree, with Ms. Margeson, that people walking through to an adjacent property is really not a burden that the property owner should have. I don't think those are things that factor into saying that this is not meeting that criteria.

It really comes down to the ability to connect all the whole structure that they're proposing here, which is substantial and a fully pedestrian-oriented way. And this ATM drive-through is preventing that.

CHAIRWOMAN PHYLLIS ELDRIDGE: Any other comments? Okay. A yes vote denies the request and there will not be a drive-through.

Mr. Nies.

THOMAS NIES: Yes.

CHAIRWOMAN PHYLLIS ELDRIDGE: Mr. Mannle.

PAUL MANNLE: Yes.

CHAIRWOMAN PHYLLIS ELDRIDGE: Ms. Margeson.

VICE CHAIR BETH MARGESON: Yes.

CHAIRWOMAN PHYLLIS ELDRIDGE: Mr. Rheaume.

DAVID M. RHEAUME: Yes.

CHAIRWOMAN PHYLLIS ELDRIDGE: Mr. Mattson.

JEFFREY MATTSON: No.

CHAIRWOMAN PHYLLIS ELDRIDGE: And the chair votes yes. So you are not approved this evening.

(Recording stopped.)

CERTIFICATE

I Steven Thomas certify that I was authorized to and did transcribe the above audio and that the transcript is a true and correct record of the audio provided.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Steven Thomas

/s/ Steven Thomas

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Transcriber

November 6, 2025



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CITY OF PORTSMOUTH
Planning & Sustainability Department
1 Junkins Avenue
Portsmouth, New Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

October 30, 2025

Double Mc LLC
10 Pleasant Street, Suite 300
Portsmouth, New Hampshire 03801

RE: **Board of Adjustment Request for property located at 134 Pleasant Street, Portsmouth NH 03801 (LU-25-138)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **October 28, 2025**, considered your application for the property located at 134 Pleasant Street whereas relief is needed for redevelopment of the existing commercial building and construction of horizontal and vertical building expansions for a mix-use building with below-grade parking and the relocation of drive-through teller lanes, which requires the following: 1) Variance from Section 10.440, Use #19.40 for a drive-through facility as an accessory to a permitted principle use; and 2) Variance from Section 10.331 to change the location and use of the drive-through facility. Said property is shown on Assessor Map 116 Lot 30 and lies within the Character District 4 (CD4) and Historic District. As a result of said consideration, the Board voted to **deny** the request as it does not meet the public interest or the spirit of the Ordinance.

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning & Sustainability Department for more details about the appeals process.

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

Francis X. Bruton, Esq., Bruton & Berube, PLLC
Tracy Kozak, ARCove Architects
John Chagnon, Haley Ward

Findings of Fact | Variance
City of Portsmouth Zoning Board of Adjustment

Date: 10-28-2025

Property Address: 134 Pleasant St

Application #: LU-25-138

Decision: **Deny**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	**Finding** (Meets Criteria)	**Relevant Facts**
10.233.21 Granting the variance would not be contrary to the public interest.	**NO**	• The proposed drive-through cuts the pedestrian flow on the property. • The proposed drive-through segregates the pedestrian experience and creates an island for the back property.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	**NO**	• The ordinance's intent is to eliminate the allowance for drive-throughs in the CD4 and CD5 zones in a desire to move the downtown core areas more toward pedestrian use and other types of transportation. • Continuing the drive-through use that is no longer allowed in the area is in violation of the characteristics of the neighborhood as well as the spirit of the ordinance.

10.233.23 Granting the variance would do substantial justice.		
10.233.24 Granting the variance would not diminish the values of surrounding properties.		
10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship. (a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.		

PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE

EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 PM Public Hearings begin **September 18, 2025**

ACTION SHEET

REGULAR MEETING 7:00pm

I. APPROVAL OF MINUTES

A. Approval of the August 21, 2025 meeting minutes.

The Board voted to approve the minutes as presented.

Motion: B. Moreau; **Second**: R. Wolf
Motion passed with all in favor with K. Conard and T. Coviello abstaining

II. DETERMINATIONS OF COMPLETENESS

SUBDIVISION REVIEW

A. REQUEST TO POSTPONE The request of **Walter D. Hett Trust (Owner),** for property located at **0 Banfield Road** requesting Preliminary and Final Subdivision approval and Site Plan Review approval to subdivide one lot into 5 new residential lots with associates site improvements. **REQUEST TO POSTPONE**

SITE PLAN REVIEW

A. REQUEST TO POSTPONE The request of **Walter D. Hett Trust (Owner),** for property located at **0 Banfield Road** requesting Preliminary and Final Subdivision approval and Site Plan Review approval to subdivide one lot into 5 new residential lots with associates site improvements. **REQUEST TO POSTPONE**

*The Board voted to **postpone** both applications to the October meeting.*

Motion: J. Almeida; **Second:** K. Conard
Motion passed with all in favor

III. PUBLIC HEARINGS -- OLD BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature.
If any person believes any member of the Board has a conflict of interest,
that issue should be raised at this point or it will be deemed waived.

A. The request of **SLF Realty Group LLC (Owner),** for property located at **400 Spaulding Turnpike** requesting an amended Site Plan approval to change the temporary access path to a permanent access path. Said property is located on Assessor Map 238 Lot 2 and lies within the Gateway Corridor (G1) District. (LU-25-50)

Motion to consider Old Business Items A and B.
***Motion:** B. Moreau**; Second:** J. Almeida*
Motion passed with all in favor

1) The Board voted to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented.

***Motion:** T. Coviello; **Second:** J. Almeida*
Motion passed with all in favor

*2) The Board voted to **grant** Amended Site Plan approval.*

***Motion:** T. Coviello; **Second:** J. Almeida*
Motion passed with all in favor

B. The request of **SLF Realty Group LLC (Owner),** for property located at **400 Spaulding Turnpike** requesting an after-the-fact Wetland Conditional Use Permit for permanent wetland buffer impacts that were not included in the original Wetland Conditional Use Permit for this project. The new request is an increase in wetland buffer impacts from 1,644 square feet to 3,685 square feet. Said property is located on Assessor Map 238 Lot 2 and lies within the Gateway Corridor (G1) District. (LU-25-50)

1) The Board voted to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.50 of the Ordinance and adopt the findings of fact as presented.

***Motion:** T. Coviello; **Second:** J. Almeida*
Motion passed with all in favor

*2) The Board voted to **grant** the Conditional Use Permit with the following **conditions**:*

2.1) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. The Commission recommends placing two

markers on either side of the proposed gate at the bottom of the access road. These markers must be installed by December 31, 2025.

Motion: *T. Coviello;* ***Second:*** *J. Almeida*
Motion passed with all in favor

C. The request of **Market Square LLC (Owner),** for property located at **1** and **15 (21) Congress Street** requesting a Conditional Use Permit from Section 10.440, Use 1.71 Coliving. Said property is located on Assessor Map 117 Lots 12 & 14 and lies within the Character District 4 (CD-4), Character District 5 (CD-5), Historic, and Downtown Overlay Districts. (LU-22-12)

1) The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.243 and to adopt the findings of fact as presented.

Motion: *K. Conard;* ***Second:*** *J. Almeida*
Motion passed 8-1 with member Bowen voting in opposition

2a.) The Board voted to ***grant*** *the modification from Section 10.815.26 to allow more than 80 residents per building and more than 40 residents per floor as presented.*

Motion: K. Conard; **Second:** J. Almeida
Motion passed 5-4 with members Wolf, Samonas, Bowen, and Chellman voting in opposition.

2.b) The Board voted to grant the modification from Section 10.815.25 to: require one full-time on-site manager available 24/7/365 and one off-site manager available 24/7/365 located within one-half mile of the property, with the additional condition the applicant will report back one year from the issuance of the Certificate of Occupancy as required by the Ordinance. If the applicant wishes to change the on-site management at that time, they must demonstrate the on-site 24/7/365 management is not necessary based on data and City staff reports demonstrating that there have been no substantial issues or complaints.

Motion: T. Coviello; **Second:** B. Moreau
Motion passed 6-3 with members Wolf, Samonas, and Bowen voting in opposition

3) The Board voted to ***grant*** *the Conditional Use Permit for Coliving with the following* ***condition****:*

3.1) The applicant shall obtain a permit through the City Clerk's office in accordance with Section 10.815.50 prior to a Certificate of Occupancy for any Coliving Facility.

Motion: B. Moreau; **Second:** K. Conard
Motion passed 7-2 with members Samonas and Bowen voting in opposition.

The Boad voted to continue past 10 pm.

Motion: B. Moreau; **Second:** K. Conard
Motion passed with all in favor

IV. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature.
If any person believes any member of the Board has a conflict of interest,
that issue should be raised at this point or it will be deemed waived.

A. The request of **Roger** and **Elizabeth Trudeau** and **The Carol A. Claburn** and **Billy J. Claburn Revocable Trust of 2014 (Owner),** for property located at **10** and **40 Crescent Way** requesting approval of a lot line relocation between two lots with 2,088 square feet being transferred from Assessor's Map 212 Lot 163 to Map 212 Lot 165. The proposed lot line relocation will straighten the common lot line between the two lots. Said property is located on Assessor Map 212 Lot 163, 165 and lies within the General Residence B (GRB) District. (LU-25-128)

1) *The Board voted to **grant** the requested waivers to the Subdivision Standards from Section IV.9/V.8 Requirements for Preliminary Plat and Requirements for Final Plat.*

   a) *Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.*

Motion: B. Moreau; **Second:** R. Wolf
Motion passed with all in favor.

2) *The Board voted to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.*

***Motion:** B. Moreau; **Second:** A. Samonas*
Motion passed with all in favor

3) *The Board voted to **grant** Preliminary and Final Subdivision approval with the following **Conditions**:*

   3.1) The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

   3.2) GIS data shall be provided.

Motion: B. Moreau; **Second:** K. Conard
Motion passed with all in favor

B. REQUEST TO POSTPONE The request of **Walter D. Hett Trust (Owner),** for property located at **0 Banfield Road requesting** Preliminary and Final Subdivision approval and Site Plan Review approval to subdivide one lot into 5 new residential lots with associated site improvements. Said property is located on Assessor Map 255 Lot 2 and lies within the Single Residence A (SRA) District. **REQUEST TO POSTPONE** (LU-25-22)

*The Board voted to **postpone** the to the October meeting.*

Motion: J. Almeida; **Second:** K. Conard
Motion passed with all in favor

C. REQUEST TO POSTPONE The request of **Walter D. Hett Trust (Owner),** for property located at **0 Banfield Road** requesting a Wetland Conditional Use Permit in accordance with Section 10.1017.50 for the installation of a shared residential driveway, underground utility piping, grading work, and at-grade stormwater management BMPs for the proposed five-lot subdivision including 3,393 s.f. of permanent disturbance in the 100' wetland buffer. Said property is located on Assessor Map 255 Lot 2 and lies within the Single Residence A (SRA) District. **REQUEST TO POSTPONE** (LU-25-22)

*The Board voted to **postpone** the request to the October meeting.*

Motion: J. Almeida; **Second**: K. Conard
Motion passed with all in favor.

V. PRELIMINARY CONCEPTUAL CONSULTATION

A. The request of **Double MC LLC (Owner),** for property located at **134 Pleasant Street** requesting Preliminary Conceptual Consultation. Said property is located on Assessor Map 116 Lot 30 and lies within the Character District 4 (CD4) and Historic Districts. (LUPD-25-9)

B. The request of **Meadowbrook Inn Corp (Owner),** and **Portsmouth Chevrolet (Applicant)** for property located at **549 US Rt 1 Bypass** requesting Preliminary Conceptual Consultation. Said property is located on Assessor Map 234 Lot 51 and lies within the Gateway Corridor (G1) District. (LUPD-25-11)

C. The request of **PNF Trust of 2013** and **282 Middle Street LLC (Owners),** for property located at **84 Pleasant Street** and **266-278 State Street** requesting Preliminary Conceptual Consultation. Said property is located on Assessor Map 107 Lots 77-80 and lies within the Character District 4(CD4), Downtown Overlay and Historic Districts. (LUPD-25-13)

VI. OTHER BUSINESS

A. Zoning Amendments

*The Board voted to **postpone** the zoning amendments to the October meeting.*

***Motion:** B. Moreau; **Second:** J. Almeida*
Motion passed with all in favor

B. Chairman updates and discussion items

C. Board discussion of Regulatory Amendments & other matters

VII. ADJOURNMENT

The meeting adjourned at 11:30 pm

III. NEW BUSINESS

A. The request of **Eric Brassard (Owner)**, for property located at **233 Dennett Street** whereas relief is needed to construct a detached accessory dwelling unit and garage which requires the following: 1) Variance from Section 10.521 to allow a) 4-foot left side yard where 10 feet is required. Said property is located on Assessor Map 142 Lot 7 and lies within the General Residence A (GRA) District. (LU-25-155)

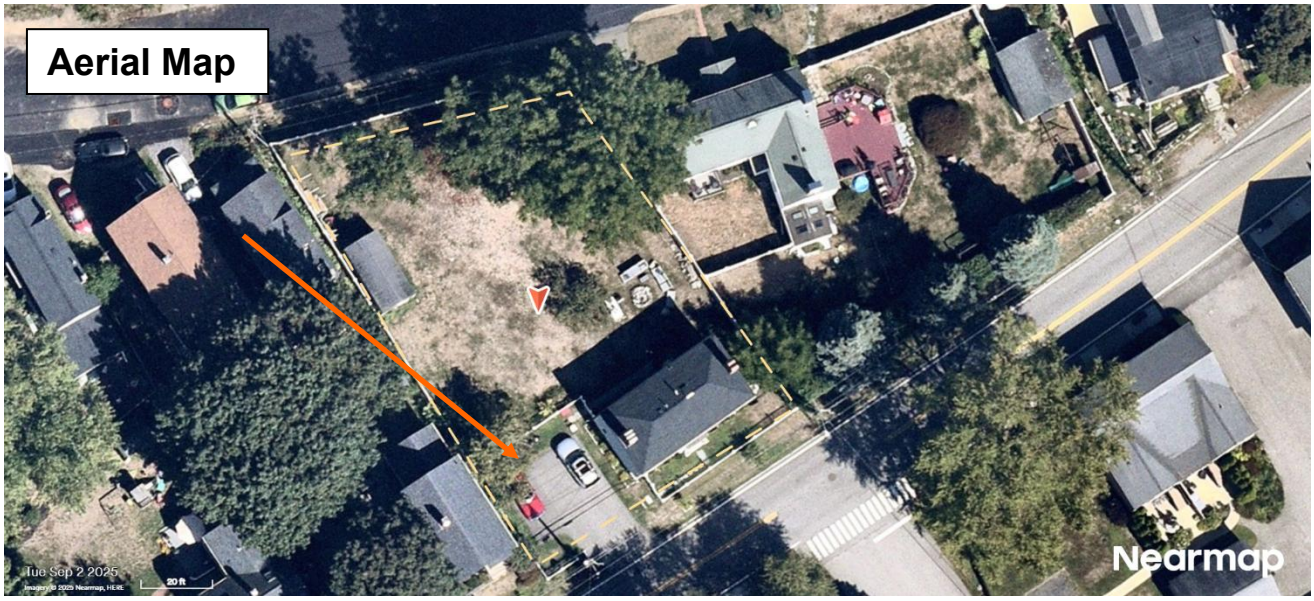
Existing & Proposed Conditions

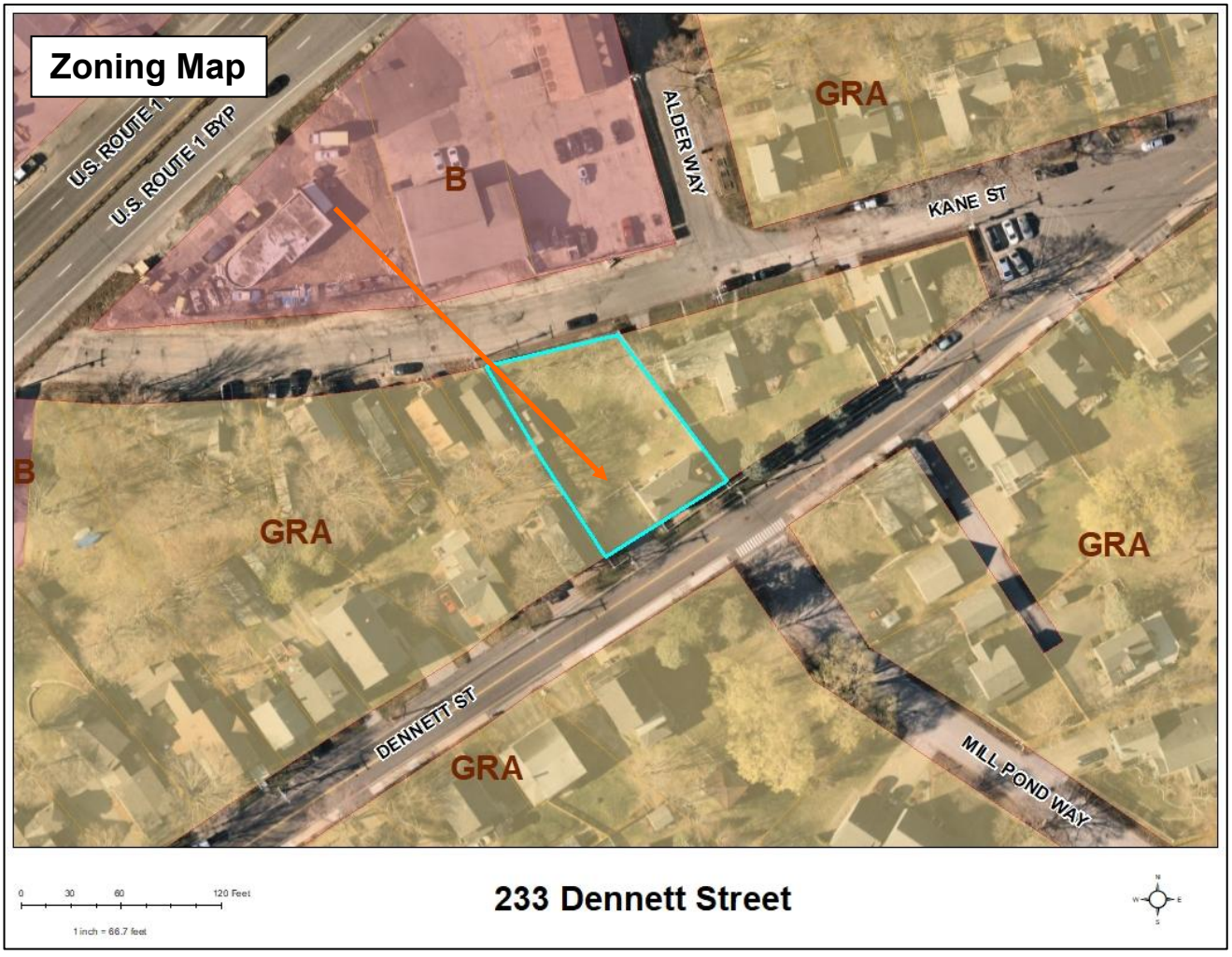
	Existing	Proposed	Permitted / Required	
Land Use:	Single Family Residential Home	Detached Garage with ADU	Primarily Residential	
Lot area (sq. ft.):	10,413	10,413	7,500	min.
Street Frontage (ft.):	82	82	100	min.
Lot depth (ft.):	127.5	127.5	70	min.
Front Yard (ft.):	10	House: 10 Garage/ADU:15	15	max.
Left Yard (ft.):	35	House: 35 Garage/ADU:4	10	min.
Right Yard (ft.)	9	9	10	min.
Rear Yard (ft.):	>20	>20	20	min.
Height (ft.):	House: 26.35	House: 26.35 Garage/ADU: 20.75	35	max.
Building Coverage (%):	10	16	25	max.
Open Space Coverage (%):	>30	>30	30	min.
Parking	2	4	2	min.
Estimated Age of Structure:	1810	Variance request(s) shown in red.		

Other Permits/Approvals Required

- Building Permit

Neighborhood Context





Previous Board of Adjustment Actions

March 4, 1980 – The Board **granted** a Special Exception as allowed in Article II, Section 10-206(6) to allow the conversion of a single family dwelling into a two family dwelling.

July 19, 2005 – The Board **denied** a Variance from Article IV, Section 10-402(B) to construct a two story 24' x 36' barn/garage 24' in height with a 3'± rear yard where 18' is the minimum required.

Planning Department Comments

The applicant is requesting relief to construct a detached garage with an accessory dwelling unit (ADU) on the second floor. Relief is needed to construct the structure 4 feet from the left side boundary line where 10 feet is required. This application received an ADU CUP from the Planning Board prior to the completion of a boundary survey. The applicant is now before the Board after learning the structure is closer than the minimum left yard requirements.

Variance Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a) The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR
   Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

The Carriage House

235 Dennett Street

Portsmouth, NH

323-717-9199

December 1, 2025

To Whom It May Concern:

Thank you for your time and consideration of my project. Honoring and preserving the legacy of this house and the surrounding neighborhood have been at the forefront of my mind as I have conceived of and put this project into motion.

In addition to providing an additional housing unit for rent, this structure will occupy the area that we currently use as our driveway where we park 2 cars and have our trash and recycling bins. The structure will house both vehicles (while still allowing for 2 uncovered parking spaces) and provide storage and workshop space.

The proposed 2-car garage/DADU (1 bed/1bath, 721.5 sq. ft.) will borrow design cues from the main house. The Carriage House's roof plan and proportions will approximate the main house's shallow, hip-roofed colonial style. Should the budget allow, I'd also like to have a chimney put on the carriage house that matches the main house's bishops' cap detail. Additionally, the siding (painted cedar clapboards), roof shingles, trim, exterior light fixtures, and the doors and windows will match those currently present on the house.

Where trim is concerned, I intend to recreate the portico that surrounds the front door of the main house as surrounds for each of the garage doors (see Page D), visually tying the Carriage House to the main House.

It is my intention that the new structure, upon completion, look as though it has been there all along.

To achieve this, I am seeking a variance to allow me to build inside of the 10' side yard setback. If I am granted the variance, the minimum setback upon completion will be 4' 3" at the westernmost corner of the structure.

Fondly,



Eric Brassard

I understand that in order to authorize a variance, the Board must find that the variance meets all of the following criteria. To that end, please see my notes below:

1. 10.233.21 The variance will not be contrary to the public interest.

The proposed variance is consistent with the public interest because it will not alter the essential character of the neighborhood or interfere with the public's use and enjoyment of the surrounding public areas.

2. 10.233.22 The spirit of the Ordinance will be observed;

The spirit of the Ordinance will be observed. The proposed variance will allow for the continued reasonable use of the property.

3. 10.233.23 Substantial justice will be done;

Granting the variance would result in substantial justice because the benefit to me far outweighs any potential harm (though I will re-assert that there will be not harm whatsoever) to the general public. Approval would ensure that I can make reasonable use of my property while the community will experience no adverse effects.

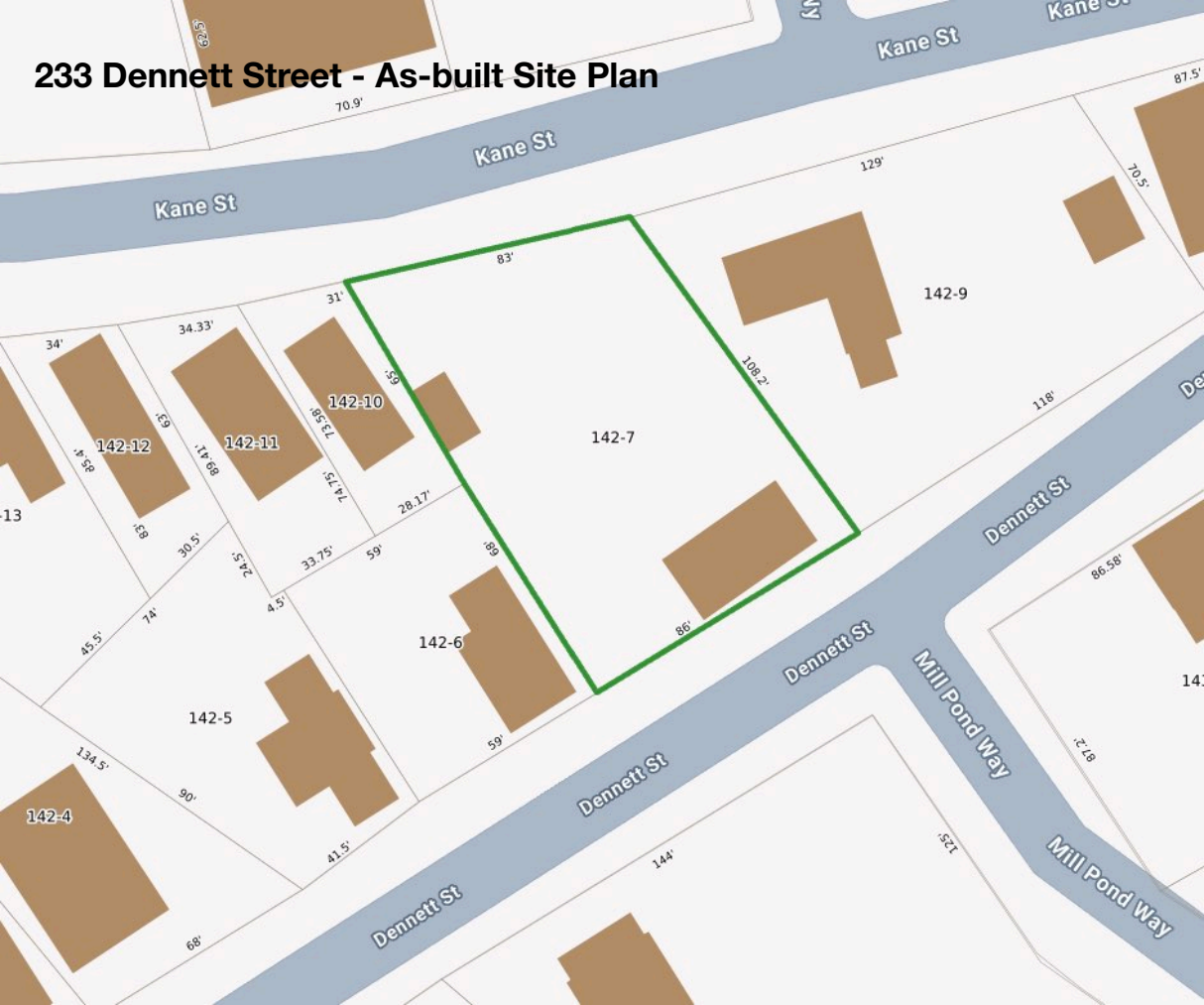
4. 10.233.24 The values of surrounding properties will not be diminished; and…

The proposed variance does not diminish surrounding property values because the project is compatible in scale, appearance, and use with nearby properties. It does not create nuisances, congestion, or visual impacts that would detract from neighboring homes.

5. 10.233.25 …Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

Literal enforcement would create an unnecessary hardship because my property has unique conditions - specifically, the placement of the original structure (built in 1810). The original building's footprint restricts where reasonable additions can be built. Granting the variance therefore remedies said hardship.

233 Dennett Street - As-built Site Plan



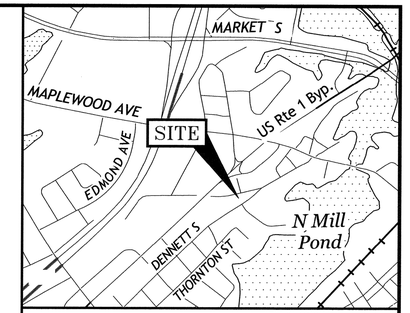
LEGEND:

DESCRIPTION	EXISTING
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
1234/123	DEED BOOK/PAGE
N/F	NOW OR FORMALLY
TYP.	TYPICAL
ELV.	ELEVATION
FF	FINISHED FLOOR
SWL	SINGLE WHITE LINE
DYL	DOUBLE YELLOW LINE
VCC	VERTICAL CONCRETE CURB
MAP 21 LOT 8	21/8
BENCHMARK	
IRON ROD/PIPE FOUND	
SEWER MANHOLE	
DRAIN MANHOLE	
UTILITY POLE	
CATCH BASIN	
HYDRANT	
GATE VALVE	GGV WGV SGV
GAS/WATER SHUTOFF	
BOLLARD	
TREES	
GAS/ELECTRIC METER	E G
SIGN	
PROPERTY LINE	
APPROXIMATE EXTERIOR PROPERTY LINE	
EDGE OF PAVEMENT	
EDGE OF GRAVEL	
MINOR FOOT CONTOUR	98
MAJOR FOOT CONTOUR	100
OVERHEAD UTILITY LINE	

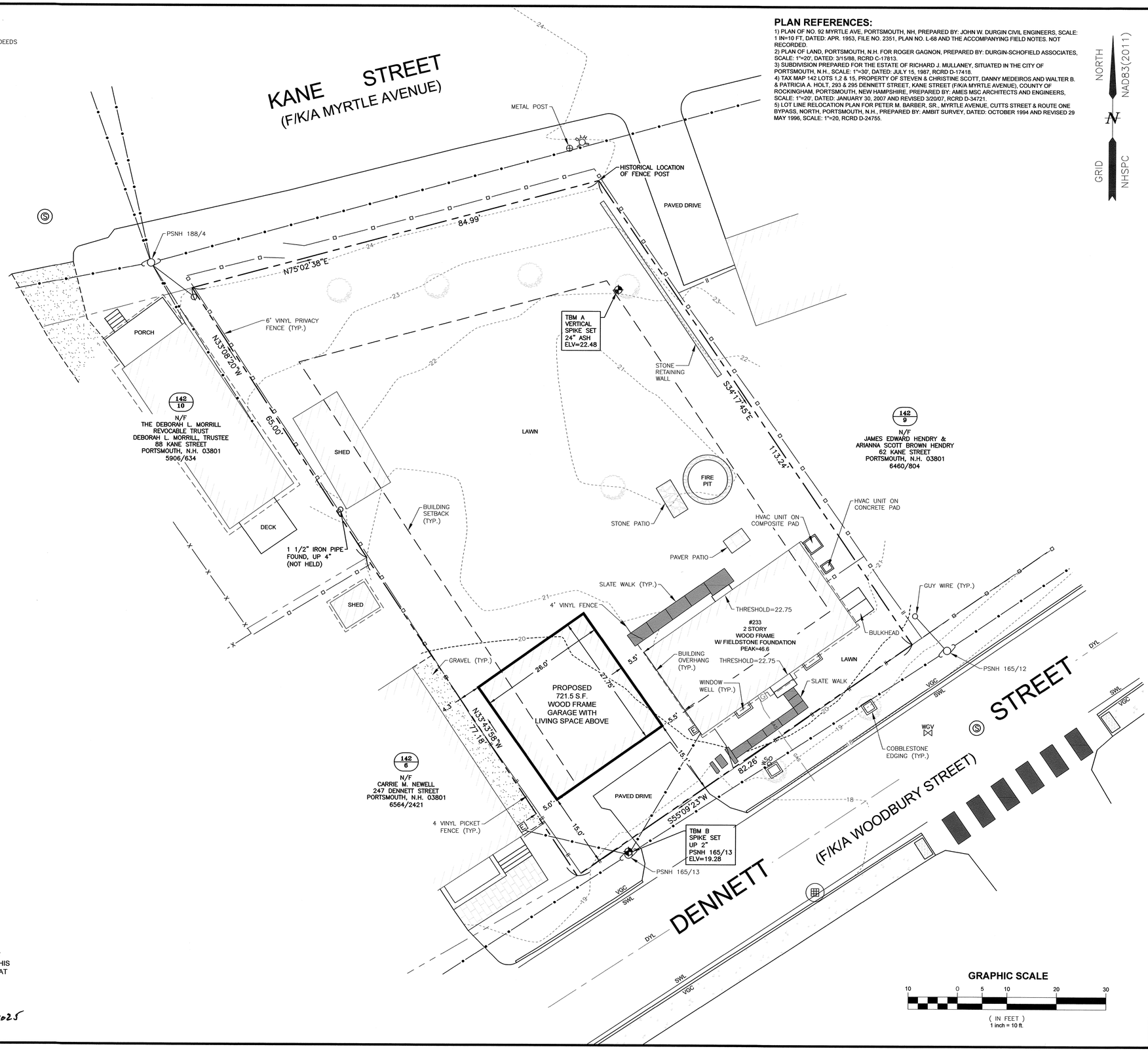
PLAN REFERENCES:

1) PLAN OF NO. 92 MYRTLE AVE, PORTSMOUTH, NH, PREPARED BY: JOHN W. DURGIN CIVIL ENGINEERS, SCALE: 1 IN=10 FT, DATED: APR. 1953, FILE NO. 2351, PLAN NO. L-68 AND THE ACCOMPANYING FIELD NOTES. NOT RECORDED.
2) PLAN OF LAND, PORTSMOUTH, N.H. FOR ROGER GAGNON, PREPARED BY: DURGIN-SCHOFIELD ASSOCIATES, SCALE: 1"=20', DATED: 3/15/88, RCRD C-17813.
3) SUBDIVISION PREPARED FOR THE ESTATE OF RICHARD J. MULLANEY, SITUATED IN THE CITY OF PORTSMOUTH, N.H., SCALE: 1"=30', DATED: JULY 15, 1987, RCRD D-17418.
4) TAX MAP 142 LOTS 1,2 & 15, PROPERTY OF STEVEN & CHRISTINE SCOTT, DANNY MEDEIROS AND WALTER B. & PATRICIA A. HOLT, 293 & 295 DENNETT STREET, KANE STREET (F/K/A MYRTLE AVENUE), COUNTY OF ROCKINGHAM, PORTSMOUTH, NEW HAMPSHIRE, PREPARED BY: AMES MSC ARCHITECTS AND ENGINEERS, SCALE: 1"=20', DATED: JANUARY 30, 2007 AND REVISED 3/20/07, RCRD D-34721.
5) LOT LINE RELOCATION PLAN FOR PETER M. BARBER, SR., MYRTLE AVENUE, CUTTS STREET & ROUTE ONE BYPASS, NORTH, PORTSMOUTH, N.H., PREPARED BY: AMBIT SURVEY, DATED: OCTOBER 1994 AND REVISED 29 MAY 1996, SCALE: 1"=20, RCRD D-24755.

NORTH NAD83(2011) N GRID NHSPC



LOCATION MAP SCALE: 1" = 1,000'



GRAPHIC SCALE
10 0 5 10 20 30
(IN FEET)
1 inch = 10 ft.

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 142 AS LOT 7.

2) OWNERS OF RECORD:
ERIC BRASSARD
233 DENNETT STREET
PORTSMOUTH, NH 03801
6507/720

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE JANUARY 29, 2021.

4) EXISTING LOT AREA:
10,413 S.F.
0.2390 ACRES

5) PARCEL IS LOCATED IN THE GENERAL RESIDENCE A (GRA) DISTRICT.

6) DIMENSIONAL REQUIREMENTS:

MINIMUM LAND AREA:	7,500 S.F.
MINIMUM STREET FRONTAGE:	100 FEET
MINIMUM LOT DEPTH:	70 FEET
SETBACKS: FRONT	15 FEET
*SEE PORTSMOUTH ZONING ORDINANCE 10.516.10 FRONT YARD EXCEPTION FOR EXISTING ALIGNMENTS.	
REAR	20 FEET
SIDE	10 FEET
MAXIMUM BUILDING COVERAGE:	25%
MINIMUM OPEN SPACE:	30%
MAXIMUM BUILDING/STRUCTURE HEIGHT:	
SLOPED ROOF	35 FEET
FLAT ROOF	30 FEET
ROOF APPURTENANCE	8 FEET

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF AN EXISTING CONDITIONS SURVEY OF ASSESSOR'S MAP 142, LOT 7 IN THE CITY OF PORTSMOUTH, SHOWING A PROPOSED GARAGE.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

9) ABUTTER INFORMATION TAKEN FROM THE CITY OF PORTSMOUTH ASSESSORS GIS WEBSITE.

10) THIS IS AN ABOVE THE GROUND SURVEY. THE UNDERGROUND UTILITIES, IF SHOWN, ARE BASED UPON BEST AVAILABLE EVIDENCE AND SURFACE FEATURES VISIBLE AT THE TIME OF THE SURVEY. THESE LOCATIONS SHOULD BE CONSIDERED APPROXIMATE. THERE MAY BE ADDITIONAL UNDERGROUND UTILITIES NOT SHOWN ON THIS PLAN. IT IS RECOMMENDED THAT THE FIELD VERIFICATION OF THE TRUE LOCATION OF ANY UNDERGROUND UTILITIES IS PREFORMED PRIOR TO ANY EXCAVATION.

11) EXISTING BUILDING MEASUREMENTS ARE TO SIDING, ABUTTER BUILDING LOCATIONS SHOULD BE CONSIDERED APPROXIMATE.

STATE OF NEW HAMPSHIRE LAND SURVEYOR No. 1122 PHILLIP A. YETMAN

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

PHILIP A. YETMAN, LLS 1122 — 11/26/2025 DATE

REV.	DATE	DESCRIPTION	BY	CHK.
0	11/26/25	ISSUED FOR COMMENT	RJB	PAY

DRAWING ISSUE STATUS
SITE SURVEY

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
200 Griffin Road, Unit 14
Portsmouth, NH 03801
603-430-9282
WWW.HALEYWARD.COM

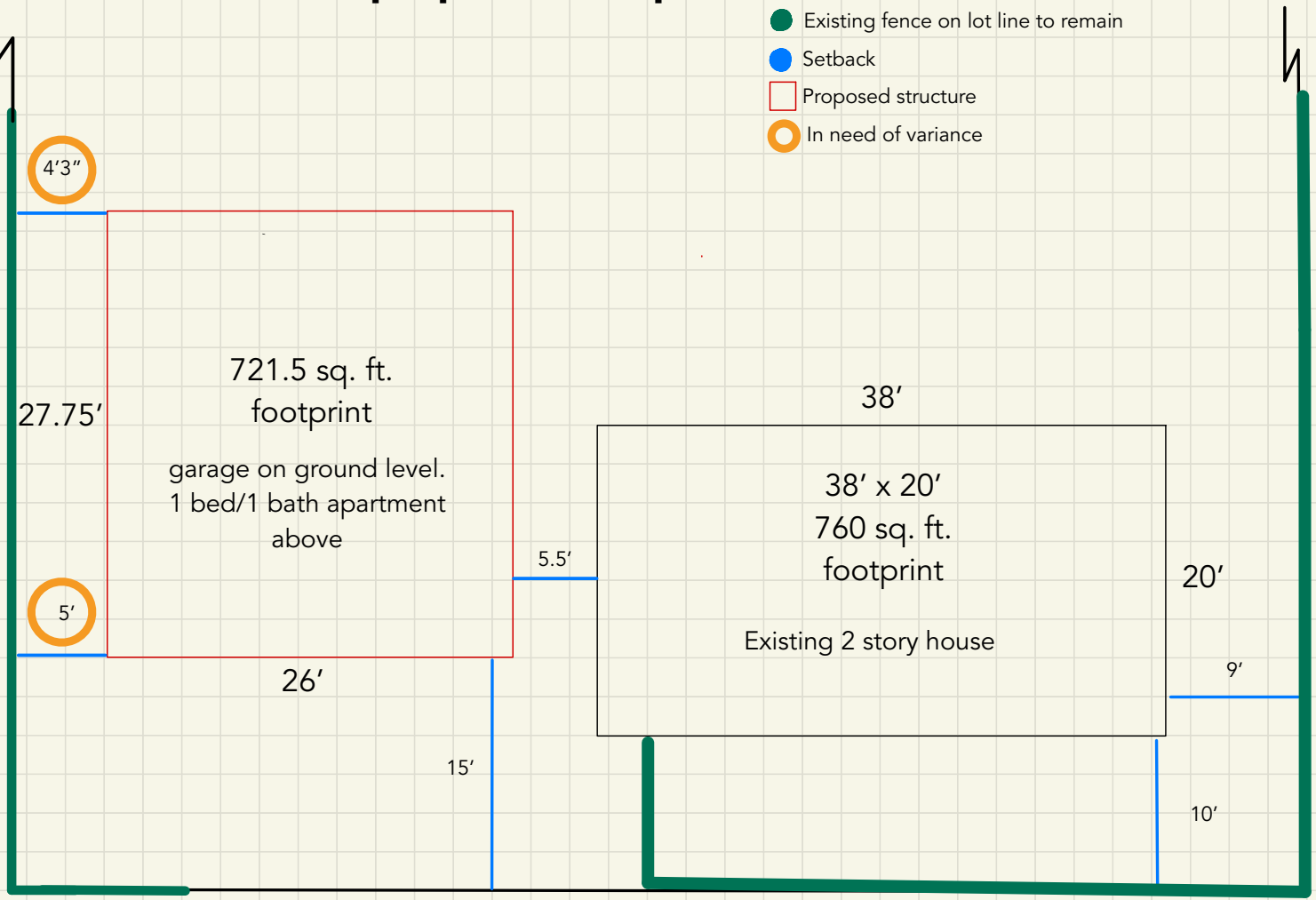
PROJECT
BRASSARD RESIDENCE
233 DENNETT STREET, PORTSMOUTH, NH

TITLE
EXISTING CONDITIONS PLAN SHOWING PROPOSED GARAGE

DATE: NOVEMBER 2025	SCALE: 1"=10'
DRAWN BY: RJB	DESIGNED BY: ---
CHECKED BY: PAY	
PROJECT No.: 5010622.001	FIELD BOOK / PAGE: FB 439 PG 14
DRAWING No.: V101	REV.: 0

P:\NH\5010622-Eric_Brassard\001-233 Dennett St., Portsmouth-PAY\02-CAD_Files\5010622-Y-101.dwg, 11/26/2025 1:56:04 PM

235 Dennett Street - proposed site plan detail



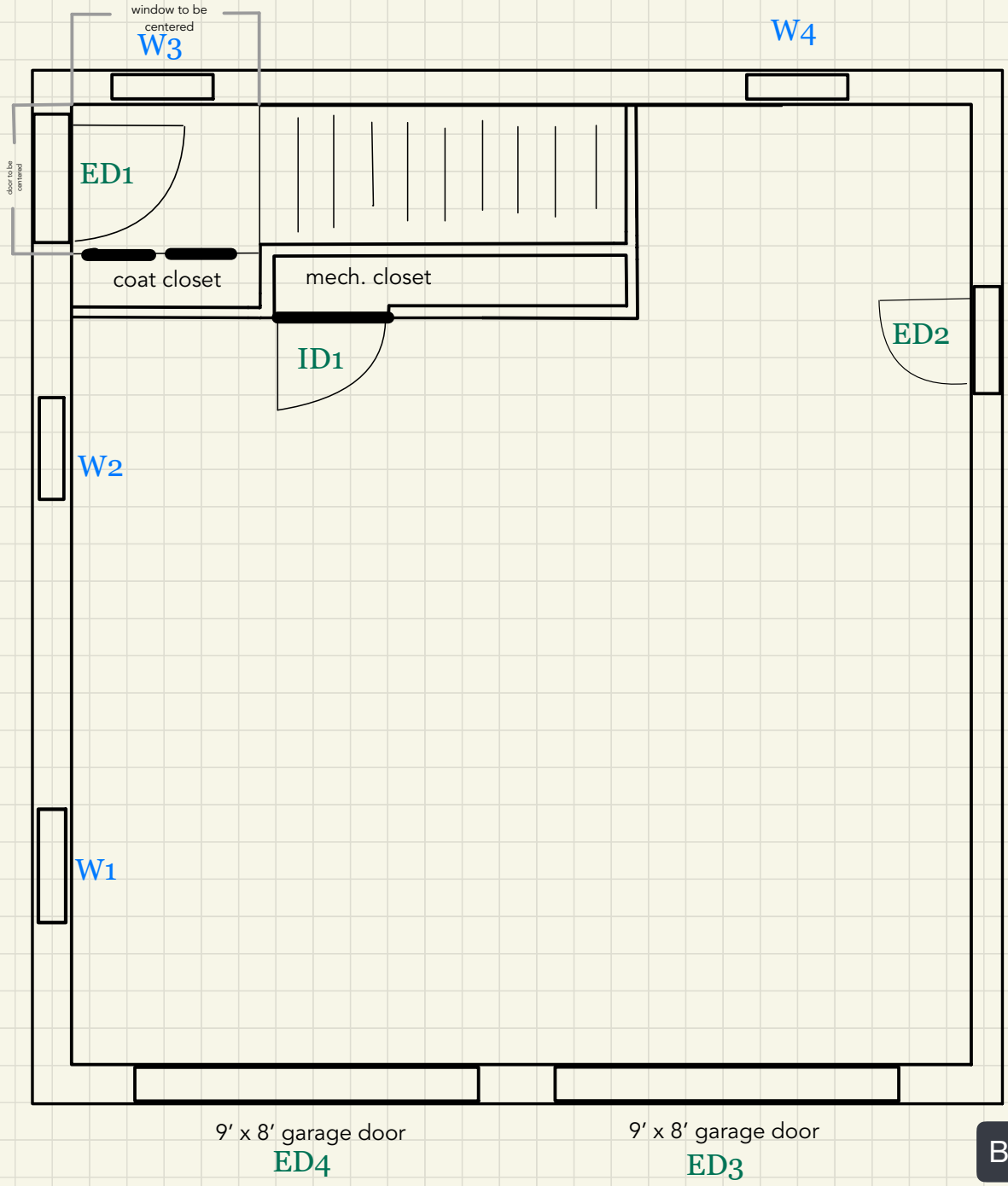
A

235 Dennett Street - floor plan ground floor garage

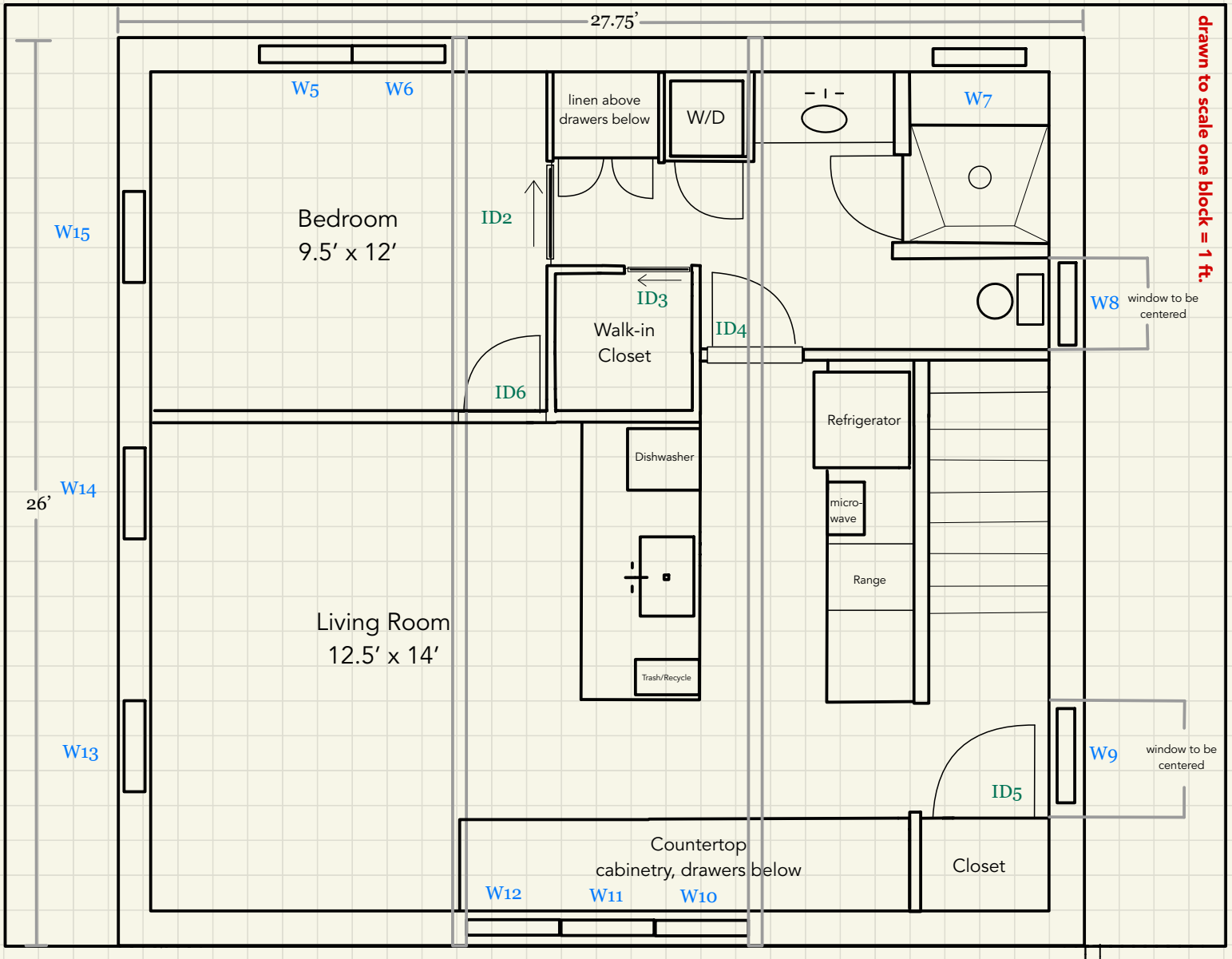
26′ x 27.75′

721.5 sq. ft.

drawn to scale one block = 1 ft.



B

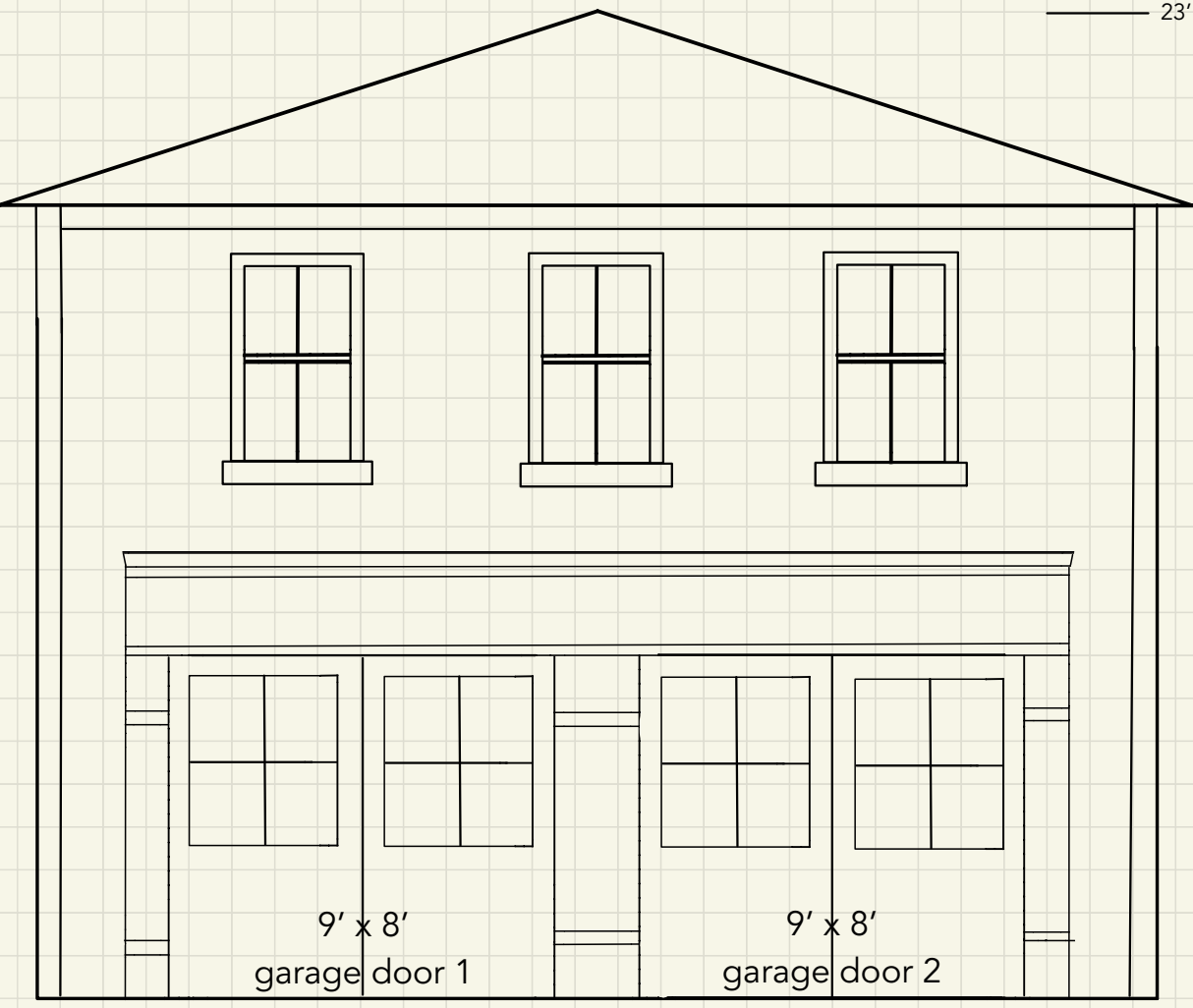

27.75'
26'
drawn to scale one block = 1 ft.
W5
W6
W7
W8
window to be centered
W9
window to be centered
W10
W11
W12
W13
W14
W15
linen above drawers below
W/D
Bedroom
9.5' x 12'
ID2
ID3
Walk-in Closet
ID4
ID5
ID6
Refrigerator
Dishwasher
micro-wave
Range
Trash/Recycle
Living Room
12.5' x 14'
Countertop
cabinetry, drawers below
Closet

235 Dennett Street - elevations

southern elevation - street facing

26′ w x 23′ h

drawn to scale one block = 1 ft.



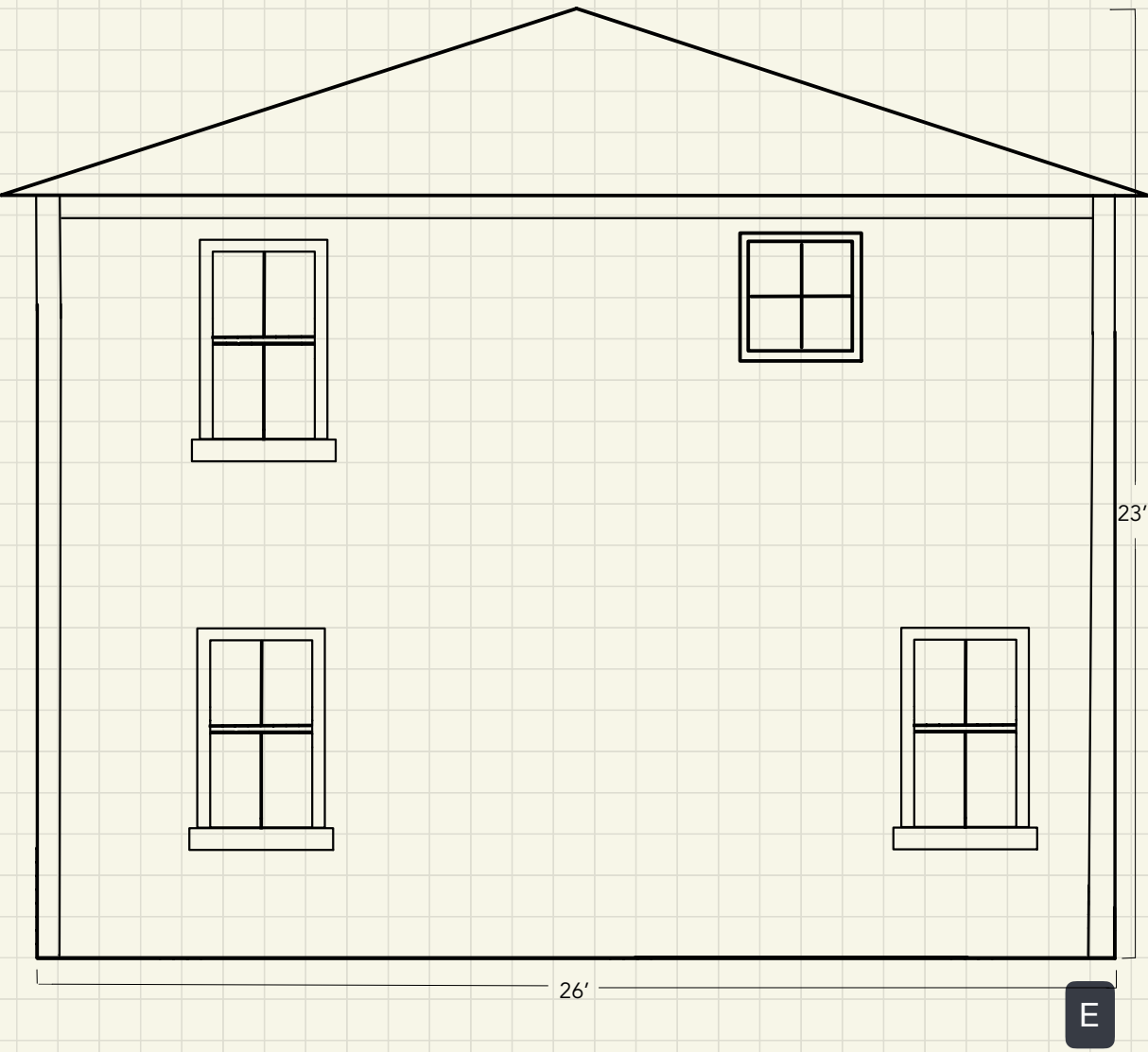
D

235 Dennett Street - elevations

drawn to scale one block = 1 ft.

northern elevation - faces backyard

26′ w x 23′ h



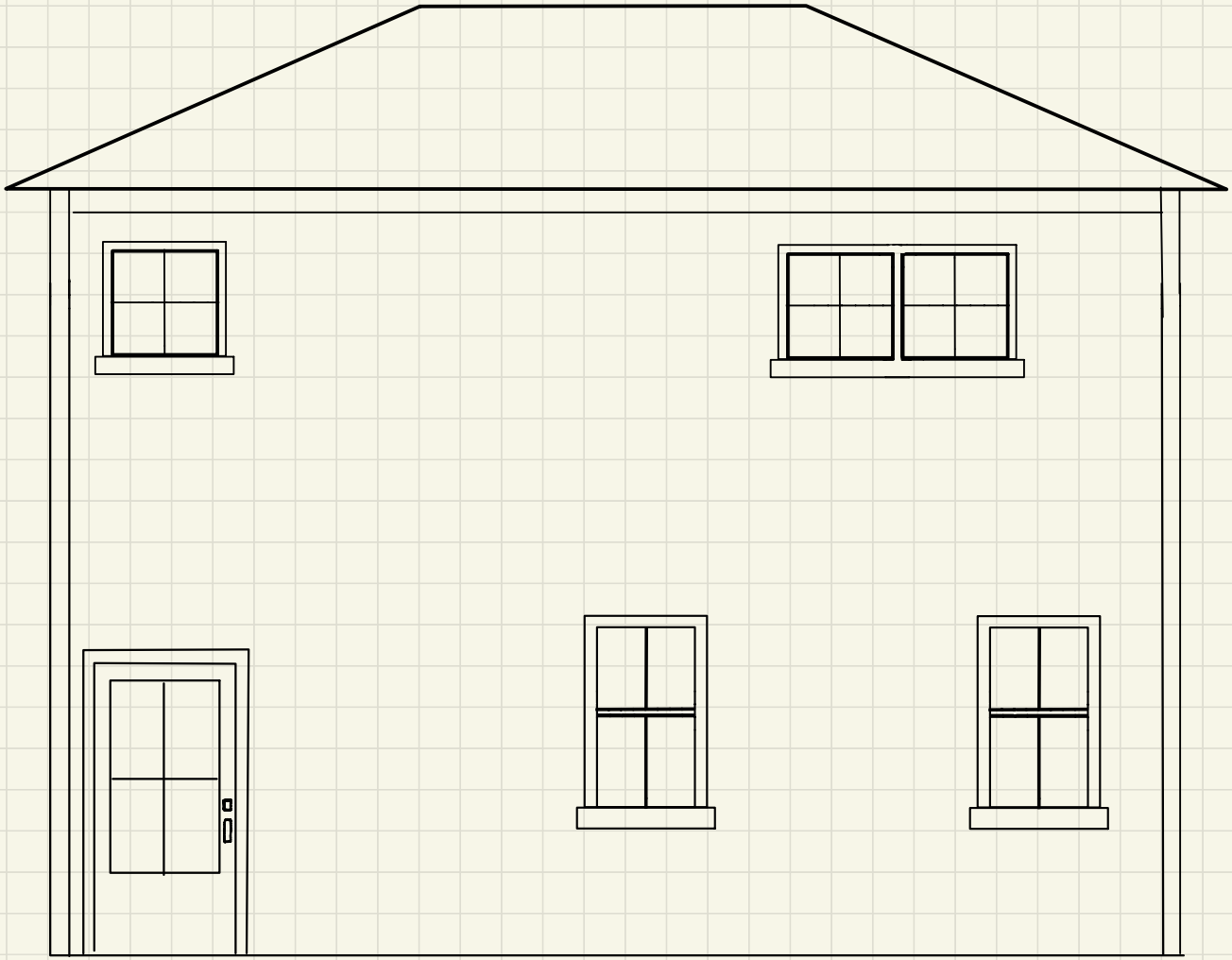
E

235 Dennett Street - elevations

drawn to scale one block = 1 ft.

western elevation - faces neighboring house

27.75′ w x 23′ h

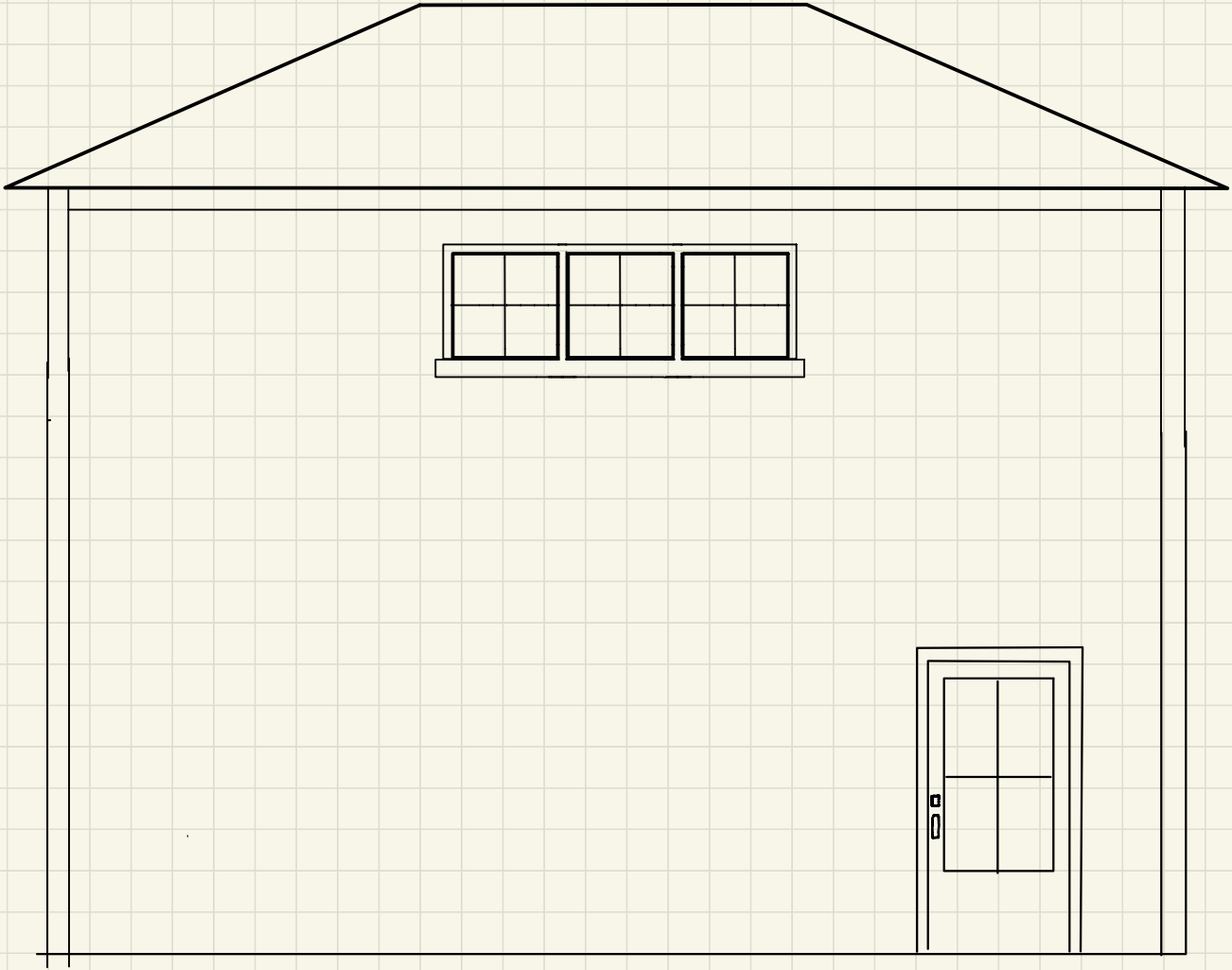


235 Dennett Street - elevations

drawn to scale one block = 1 ft.

eastern elevation - facing existing house

27.75′ w x 23′ h

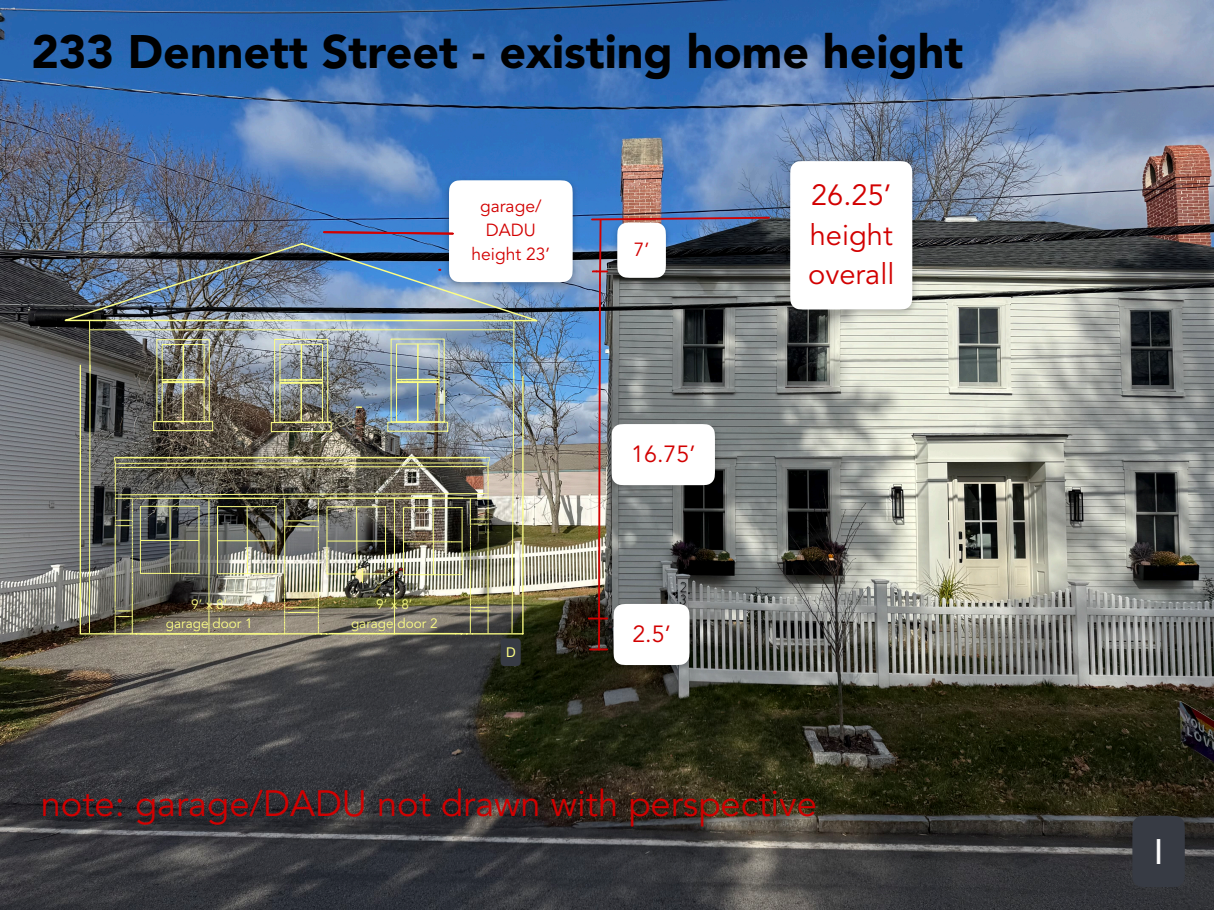


G

233 Dennett Street - existing home



233 Dennett Street - existing home height



III. NEW BUSINESS

B. The request of **R and J 2100 Corporation (Owner) and Radmoto USA (Applicant),** for property located at **2100 Lafayette Road** whereas relief is needed for a change of use from retail bicycle shop to sales of electric mopeds and motorcycles which requires the following: 1) Special Exception from Section 10.440 Use #11.10 to allow Sales, renting or leasing of motorcycles, including accessory repair services. Said property is located on Assessor Map 267 Lot 3 and lies within the Gateway Corridor (G1) District. (LU-25-162)

Existing & Proposed Conditions

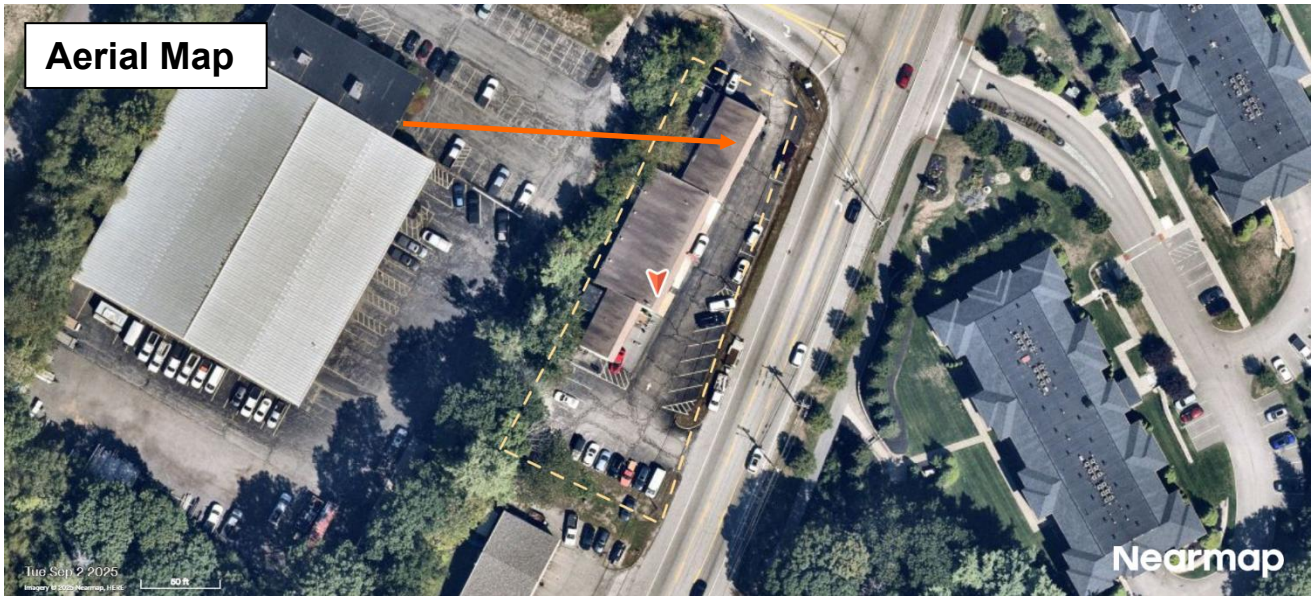
	Existing	Proposed	Permitted / Required
Land Use:	Retail bike shop	*Retail motorcycle shop	Mixed use
Estimated Age of Structure:	1975	Variance request(s) shown in red.	

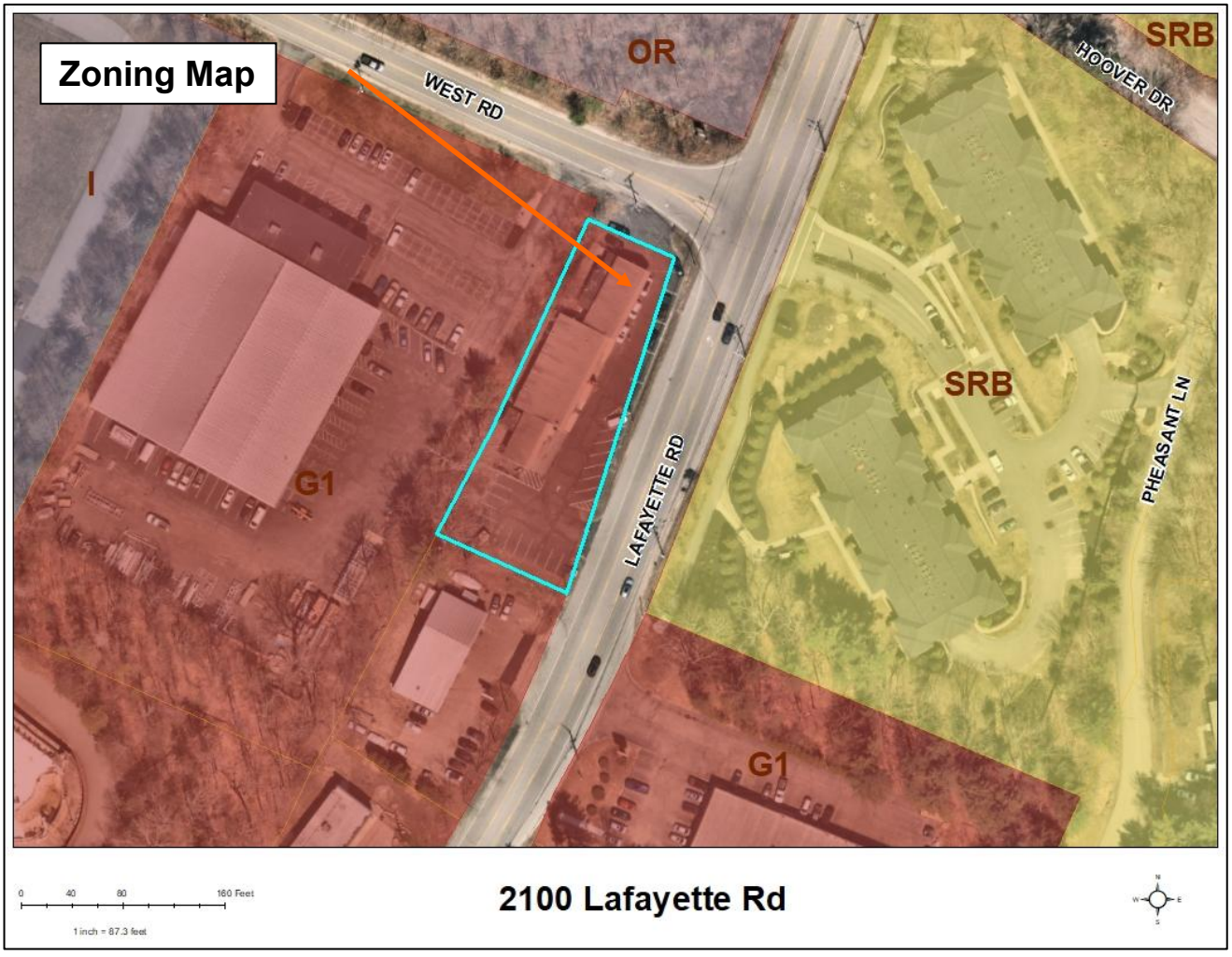
*Sale of electric mopeds requires a special exception under use #11.10 of the zoning table

Other Permits/Approvals Required

- Building Permit (tenant fit up)

Neighborhood Context





Previous Board of Adjustment Actions

January 16, 1979 – The Board **granted** a Variance from Article II, Section 10-210 to allow the operation of a day care center.

August 30, 1988 – The Board **granted** a Variance from Article III, Section 10-302 and 10-301(7) to allow the construction of 2 one-story additions totaling 1,730 s.f. (800 s.f. and 930 s.f.) with: a) a 36' front yard where a 105' front yard is required; and b) a 36' rear yard where a 50' rear yard is required. The variance was granted with the following **conditions:**

1)That the storage trailers/vans and other storage vehicles in violation shall be removed and verified by the Zoning Officer; and

2)That all non-permitted signs be removed and verified by the Zoning Officer.

April 25, 1989 – The Board voted to **grant** a Variance to allow the demolition of an existing 30' x 40' garage structure and the construction of a 3,281 s.f. (40.5' x 81') one story infill addition with: a) a 8.76' rear yard where a 50' rear yard is required; and b) a 41.4' front yard where a 105' front yard is required with the following **conditions**:

1)That the storage trailers/vans and other storage vehicles in violation shall be removed and verified by the Zoning Officer; and

1)That all non-permitted signs be removed and verified by the Zoning Officer.

The Board voted to **deny** a Variance to allow a professional office in a district where professional offices are not allowed. The Board felt that all of the criteria had not been met and that there was no hardship presented.

The Board voted to **deny** a Variance to allow a one story sun-space addition to the front of the restaurant. The Board felt that it was a matter of convenience which does not satisfy the hardship criteria, that all of the criteria had not been met, and that to construct the addition would bring the structure too close to Lafayette Road.

April 25, 1995 – The Board voted to **grant** a Variance from Article III, Section 10-301(7) to erect a 40' x 17' canopy over existing paved sidewalk entrance to help cool the inside of the restaurant during summer months in a district where 105' is the minimum required. The variance was granted with the following condition:

1)That there be no signage or lettering on the canopy; and

2)That there be no outside dining.

August 15, 1995 – The Board granted the following: 1) Variance from Article XII, Section 10-1201 to allow 16 outside dining seats requiring an additional 3 parking spaces for a total of 34 required parking spaces where 31 are provided, 2) Variance from Article III, Section 10-301(7) to allow the previously approved canopy (without side enclosures and no out side dining) to have side enclosures and four tables for outside dining with a 51' front yard where 105' is required, 3) Variance from Article III, Section 10-302 to allow said enclosed canopy to have a 39.75' rear yard where 50' is the minimum required, and 4) Variance from Article IV, Section 10-401(5) to allow the expansion of a nonconforming structure where no increase is allowed.

Planning Department Comments

The applicant is requesting a special exception to change the use of the business from Consumer Services (Use #7.30) to Motor Vehicle Related Sales (Use #11.10). This use is allowed by special exception in the G1 District. The change of use is related to new requirements for electric bikes that will require registration and plating as mopeds or motorcycles. The applicant has indicated there will not be a change in the character of the business or property and the intention is to ensure they are compliant with zoning as the legal requirements for electric bikes are changing.

Special Exception Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*
2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

City of Portsmouth Zoning Board of Adjustment

Date: Nov 05, 2025

To:
City of Portsmouth Zoning Board of Adjustment
City Hall, 1 Junkins Avenue
Portsmouth, NH 03801

From:
RadmotoUSA, LLC
Phone: 802-870-6686
Email: chas@radmotousa.com

RE: Request for Special Exception – Motor Vehicle–Related Use (Section 11.10)

Dear Members of the Board,

I am writing on behalf of **Radmoto USA**, located at 2100 Lafayette RD, to request a **Special Exception** under **Section 10.232** of the Portsmouth Zoning Ordinance for **Use 11.10 – Sales, renting or leasing of passenger cars and light trucks, motorcycles, tractors, snowmobiles, and small power equipment (e.g., lawnmowers), including accessory repair services.**

Background

Radmoto USA currently operates within the **G1 – Gateway Neighborhood Mixed Use Corridor** district as an **electric bicycle sales and service business**. Over the past two years, we have worked closely with the **City of Portsmouth Police Department** to clarify and comply with the evolving state and local regulations for **electric mopeds and motorcycles**.

As technology advances, high-performance electric bikes now meet or exceed the speed and power thresholds that require **registration and plating as mopeds or motorcycles** under New Hampshire law. To ensure full compliance, we are **proactively applying for a New Hampshire motor-vehicle dealership license** so that we can legally issue plates and maintain transparent oversight of sales.

This Special Exception does not reflect a change in the character of our business or property. The same building, parking, and operations will remain; no physical construction, expansion, or alteration of the facility is proposed. The goal is simply to bring our operations fully into alignment with municipal and state regulations.

Standards for Special Exception (per Section 10.232.20)

1. **No Hazard to Public or Adjacent Property (10.232.22)**
   All vehicles sold are **electric**, producing **no emissions, no fuel storage**, and minimal noise. No hazardous materials or combustion engines are involved.

2. **No Detriment to Property Values or Neighborhood Character (10.232.23)**
   The building facade, parking areas, and outdoor appearance will remain exactly the same. Our current customer base and hours will not change, ensuring the district's mixed-use and community-oriented character is preserved.

3. **No Traffic Safety Hazard or Substantial Increase in Congestion (10.232.24)**
   The anticipated traffic remains consistent with our existing retail pattern.

4. **No Excessive Demand on Municipal Services (10.232.25)**
   Electric motorcycles and mopeds have no fuel, oil, or waste-fluid disposal needs. There is no added strain on city water, sewer, or sanitation systems. Police engagement will be limited to continued coordination on safe-riding education.

5. **No Significant Increase in Stormwater Runoff (10.232.26)**
   The site and impervious surfaces remain unchanged; therefore, stormwater conditions are unaffected.

6. **Harmony with Ordinance Intent (10.232.10 & Gateway District Purpose)**
   The Gateway Neighborhood Mixed Use Corridor encourages innovative, sustainable commercial uses that enhance pedestrian and community life. Electric mobility aligns directly with those goals, supporting **reduced fossil-fuel dependence**, **environmental sustainability**, and **future-focused transportation**.

Conclusion

In summary, Radmoto USA is not expanding operations but ensuring that our business practices remain compliant with the city's regulations as electric mobility evolves. We respectfully request approval of this Special Exception so that we may continue serving the Portsmouth community as a responsible, innovative, and sustainable local business.

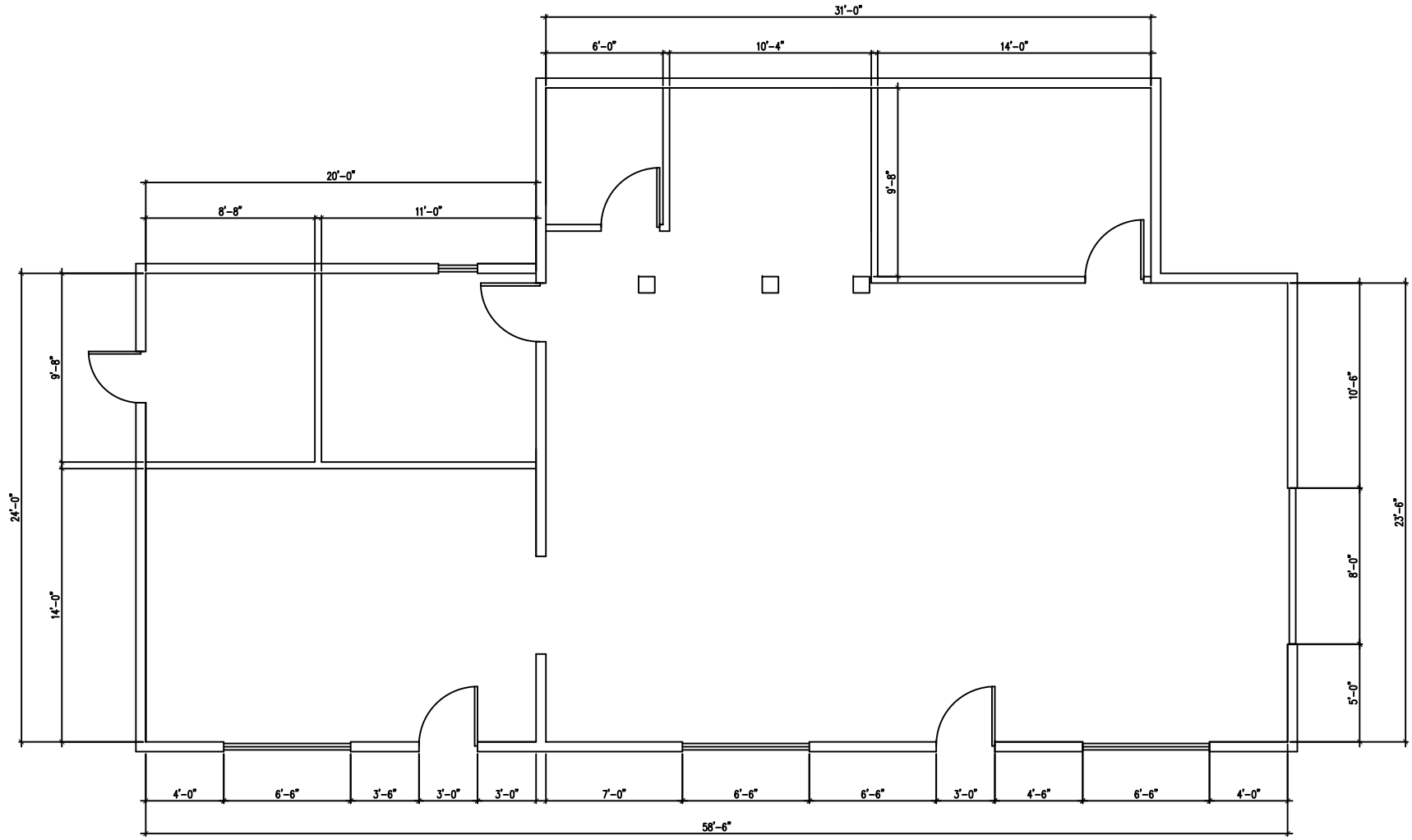
Thank you for your consideration.
Respectfully submitted,

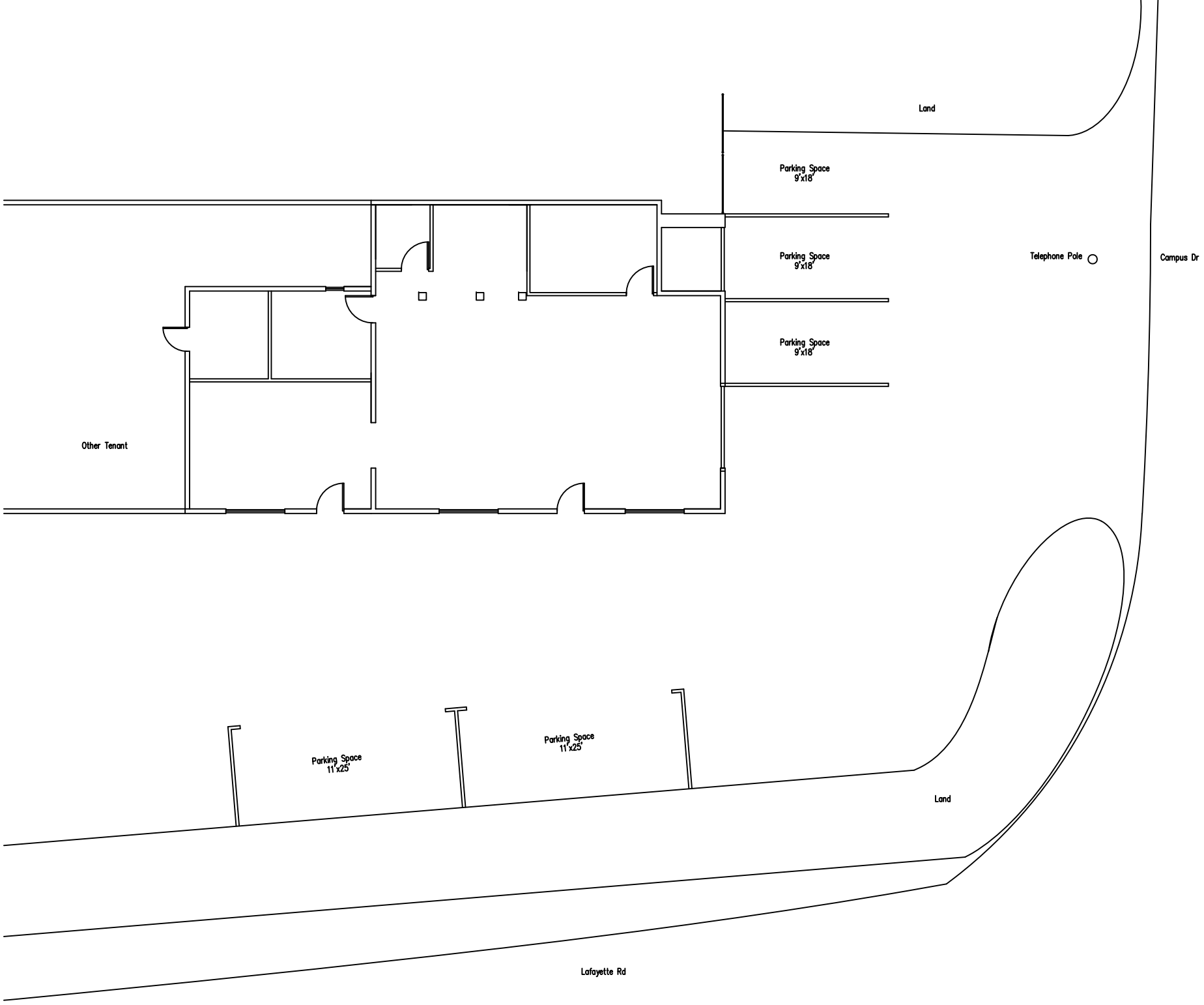
Charles "Chas" Sullivan
CEO | Radmoto USA
E: Chas@RadmotoUSA.com
P: 424-387-9013


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10'-6"
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5'-0"
23'-6"
4'-0"
6'-6"
3'-6"
3'-0"
3'-0"
7'-0"
6'-6"
6'-6"
3'-0"
4'-6"
6'-6"
4'-0"
58'-6"


Land
Parking Space
9'x18'
Parking Space
9'x18'
Parking Space
9'x18'
Telephone Pole
Campus Dr
Other Tenant
Parking Space
11'x25'
Parking Space
11'x25'
Land
Lafayette Rd

List of Existing Businesses / Uses, Unit Numbers, and Unit Areas (for Parking Calculation)
Property Address: 2100 Lafayette Road, Portsmouth, NH 03801
Owner: R & J 2100 Corporation

Overview

The property located at 2100 Lafayette Road is a single-story retail strip building (total **6,008 sq ft** per Vision Government Solutions record) containing three commercial tenant units. Each business operates independently with separate entrances and signage.

Existing Tenants and Uses

Unit #	Business Name	Type of Use	Approx. Area (SF)	Notes
Unit 1	Gold & Pawn Trading Center	Retail – Pawn Shop	~2,000 SF	Long-term tenant; general merchandise retail
Unit 2	Portsmouth Quality Flooring	Retail – Flooring Showroom	~2,000 SF	Sales and display of flooring materials
Unit 3	Radmoto USA	Retail – Electric Bicycle & Motorsports Dealer	~2,000 SF	Applicant for Special Exception to operate as a motorsports dealership

---

Building Summary

- **Total Building Area:** 6,008 sq ft
- **Stories:** 1
- **Primary Use:** Retail Strip Center
- **Construction Year:** 1975
- **Zoning District:** G-1 (per Vision Government Solutions)
- **Occupancy:** 3 units
- **Site Size:** 0.66 acres

Prepared By

Charles Sullivan
CEO, Radmoto USA
2100 Lafayette Rd, Portsmouth NH 03801
Chas@radmotousa.com | (424) 387-9013

Date: 11/12/2025

Details

Property

Location	2100 LAFAYETTE RD
Map-Lot	0267-0003-0000
Vision Account Number	35794

Ownership

Owner	R AND J 2100 CORPORATION
Address	2040 LAFAYETTE RD, PORTSMOUTH, NH 03801

Valuation

Total	$993,100
Last Sale	$0 on 1993-07-28
Deed Date	1993-07-28
Book/Page	2998/0300

Land

Parcel Area (AC)	0.66

Zoning

Zoning
G1

2100 LAFAYETTE RD

Location	2100 LAFAYETTE RD	**Mblu**	0267/ 0003/ 0000/ /
Acct#	35794	**Owner**	R AND J 2100 CORPORATION
PBN		**Assessment**	$993,100
Appraisal	$993,100	**PID**	35794
Building Count	1		

Current Value

Appraisal			
Valuation Year	**Improvements**	**Land**	**Total**
2025	$421,500	$571,600	$993,100
Assessment			
Valuation Year	**Improvements**	**Land**	**Total**
2025	$421,500	$571,600	$993,100

Owner of Record

Owner	R AND J 2100 CORPORATION	**Sale Price**	$0
Co-Owner		**Certificate**	
Address	2040 LAFAYETTE RD PORTSMOUTH, NH 03801	**Book & Page**	2998/0300
		Sale Date	07/28/1993
		Instrument	

Ownership History

Ownership History					
Owner	**Sale Price**	**Certificate**	**Book & Page**	**Instrument**	**Sale Date**
R AND J 2100 CORPORATION	$0		2998/0300		07/28/1993

Building Information

Building 1 : Section 1

Year Built:	1975
Living Area:	6,008
Replacement Cost:	$615,977
Building Percent Good:	64

Replacement Cost
Less Depreciation: $394,200

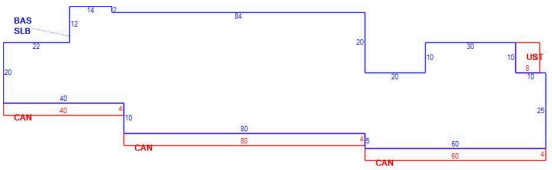
Building Attributes	
Field	**Description**
Style:	Shop Center LO
Model	Commercial
Grade	C-
Stories:	1
Occupancy	3.00
Residential Units	
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	Pre-Fab Wood
Roof Structure	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Floor 1	Inlaid Sht Gds
Interior Floor 2	
Heating Fuel	Gas
Heating Type	Forced Air-Duc
AC Type	Unit/AC
Bldg Use	RETAIL
Total Rooms	
Total Bedrms	
Total Baths	
Kitchen Grd	
Heat/AC	NONE
Frame Type	WOOD FRAME
Baths/Plumbing	AVERAGE
Ceiling/Wall	CEIL & WALLS
Rooms/Prtns	AVERAGE
Wall Height	12.00
% Comn Wall	
1st Floor Use:	
Class	

Building Photo



(https://images.vgsi.com/photos2/PortsmouthNHPhotos///0050/DSC03735_

Building Layout



(ParcelSketch.ashx?pid=35794&bid=35794)

Building Sub-Areas (sq ft)			Legend
Code	**Description**	**Gross Area**	**Living Area**
BAS	First Floor	6,008	6,008
CAN	Canopy	720	0
SLB	Slab	6,008	0
UST	Utility, Storage, Unfinished	80	0
		12,816	6,008

Extra Features

Extra Features	Legend

No Data for Extra Features

Land

Land Use

Use Code	3250
Description	RETAIL
Zone	G1
Neighborhood	302
Alt Land Appr	No
Category	

Land Line Valuation

Size (Acres)	0.66
Frontage	
Depth	
Assessed Value	$571,600
Appraised Value	$571,600

Outbuildings

Outbuildings						Legend
Code	**Description**	**Sub Code**	**Sub Description**	**Size**	**Value**	**Bldg #**
PAV1	PAVING-ASPHALT			15900.00 S.F.	$23,900	1
FN4	FENCE-8' CHAIN			72.00 L.F.	$1,200	1
FN4	FENCE-8' CHAIN			88.00 L.F.	$1,400	1
EVC	ELE VEH CHGR RES LVL 1			1.00 UNITS	$800	1

Valuation History

Appraisal			
Valuation Year	**Improvements**	**Land**	**Total**
2025	$421,500	$571,600	$993,100
2024	$420,700	$571,600	$992,300
2023	$390,600	$322,800	$713,400

Assessment			
Valuation Year	**Improvements**	**Land**	**Total**
2025	$421,500	$571,600	$993,100
2024	$420,700	$571,600	$992,300
2023	$390,600	$322,800	$713,400

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III. NEW BUSINESS

C. The request of The request of **Stewart Baker Revocable Trust (Owner)**, for property located at **20 Coffins Court** whereas relief is needed for the construction of a spiral staircase on the left side of the home and dormers on the third floor which requires the following: 1) Variance from Section 10.521 to allow a) 4 foot right side yard and a 5 foot left side yard where 10 feet are required, b) 50.5% building coverage where 35% is allowed; and c) 4.5% open space where 20% is required. Said property is located on Assessor Map 135 Lot 53 and lies within the General Residence C (GRC) District. (LU-25-164)

Planning Department Comments

This item has been postponed to January due to an error in notice.

III. NEW BUSINESS

D. The request of **Kenneth J and Rebecca T Nicholson (Owners),** for property located at **53 Pray Street** whereas relief is needed to demolish and reconstruct the existing sunroom and roof deck, replace the existing patio and driveway, and replace an 8 foot fence which requires the following: 1) Variance from Section 10.521 to allow a 7.5 right side yard where 30 feet is required; 2) Variance from Section 10.515.13 to allow an 8 foot fence in the front yard where 4 feet is allowed; and 3) Variance from Section 10.516.10 to allow a 6.5 foot front yard where 17 feet is required. Said property is located on Assessor Map 102 Lot 40 and lies within the Waterfront Business (WB) and Historic Districts. (LU-25-166)

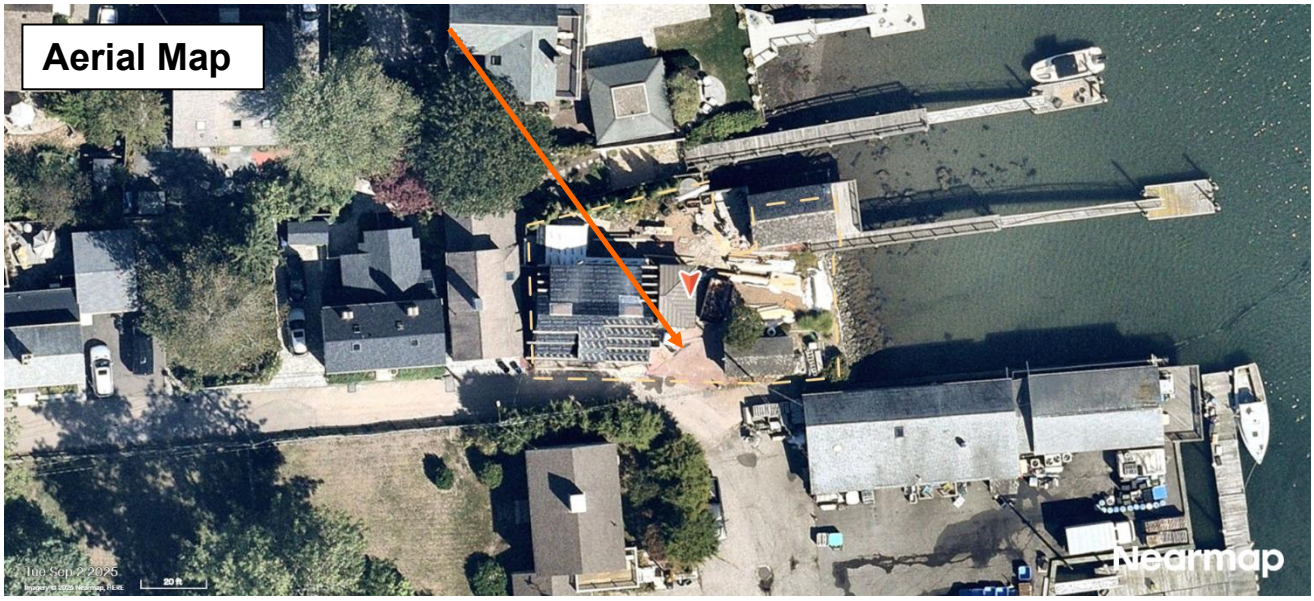
Existing & Proposed Conditions

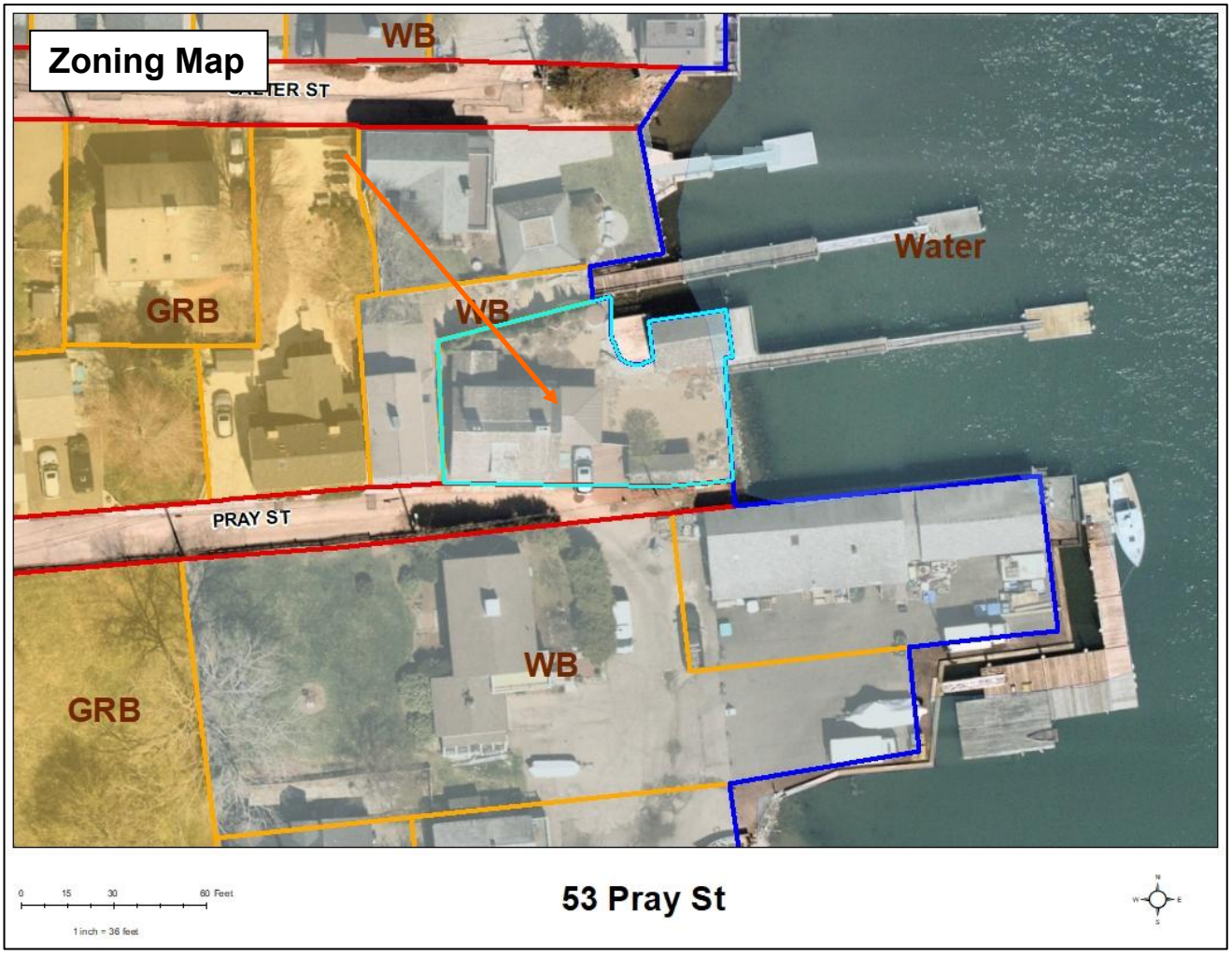
	Existing	Proposed	Permitted / Required
Land Use:	Single-family	Demolish and reconstruct sunroom with roof deck	
Lot area (sq. ft.):	4,584	4,584	20,000 min.
Front Yard (ft.):	2.5	2.5 Bulkhead: 6.5 Fence: 10	17 min.
Right Side Yard (ft.):	7.5	7.5	30 min.
Left Side Yard (ft.):	2.1	2.1	30 min.
Rear Yard (ft.):	3.8	3.8	20 min.
Estimated Age of Structure:	1750	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit
- Historic District Approval

Neighborhood Context





Previous Board of Adjustment Actions

November 16, 20210 – The application following was **withdrawn** to allow the expansion of a nonconforming residential use and structure in the Waterfront Business zone by constructing three additions which requires the following: 1) a Variance from Section 10.321 to allow the expansion of a nonconforming building; 2) a Variance from Section 10.331 to allow the expansion of a nonconforming use; 3) a Variance from Section 10.334 to allow a nonconforming use of land to expand into any part of the remaining land; and 4) a Variance from Section 10.531 a) to allow a 9' rear yard where 20' is required; b) to allow a 0' front yard where 30' is required for the vertical expansion of the garage; c) to allow an 18' front yard where 30' is required for the expansion of the residential structure; and d) to allow a building coverage of 32% where 31% currently exists and 30% is the maximum coverage allowed.

December 21, 2010 – The Board **granted** the request to allow the expansion of a nonconforming residential use and structure in the Waterfront Business zone by constructing three additions which requires the following: 1) a Variance from Section 10.321 to allow the expansion of a nonconforming building; 2) a Variance from Section 10.331 to allow the expansion of a nonconforming use; 3) a Variance from Section 10.334 to allow a nonconforming use of land to expand into any part of the remaining land; and 4) a Variance from Section 10.531 a) to allow a 7' rear yard where 20' is required; b) to allow a 6' left side yard where 30' is required for the expansion of a shed dormer; c) to allow a 0' front yard where 30' is required for the vertical expansion of the garage; d) to allow an 18' right side yard where 30' is required for the expansion of the garage; and e) to allow a building coverage of 32% where 31% currently exists and 30% is the maximum coverage allowed. Th Board granted the request with the following conditions:

1) That the boathouse will not be used as a dwelling unit and no kitchen will be installed; and
2) That the pool equipment will be stored inside one of the buildings.

September 20, 2011 – The Board **granted** the request to install a 24" x 24" x 28" compressor which requires the following: 1) a Variance from Section 10.531 to allow building coverage of 32±% where 30% is the maximum allowed. The Board voted to **grant** the request as presented and advertised except to clarify that the building coverage will now be 36±% where 35±% exists and 30% is the maximum allowed.

October 16, 2012 –The Board **granted** the request to construct a 12'6" x 20' right side porch which requires the following: 1) a Variance from Section 10.321 and Section 10.324 to allow a lawful nonconforming building to be extended or enlarged in a manner that is not in conformity with the Zoning Ordinance; 2) a Variance from Section 10.331 to allow a lawful nonconforming use to be extended or enlarged in a manner that is not in conformity with the Zoning Ordinance; 3) a Variance from Section 10.334 to allow a nonconforming use of land to expand into part of the remainer of the lot of land; and 4) a dimensional Variance from Section 10.531 to allow a building coverage of 39.2% where 33.1% exists and 30% is the maximum allowed.

Planning Department Comments

The applicant is requesting relief to reconstruct the existing sunroom and install an 8 foot fence.

Variance Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a) The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR
   Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

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ATTORNEYS AT LAW
127 Parrott Avenue | Portsmouth, NH, 03801
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

SECOND REVISED[1] MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment ("ZBA")
FROM: R. Timothy Phoenix, Esquire
Stephanie J. Johnson, Esquire
DATE: Revised December 5, 2025[2]
Re: Kenneth & Rebecca Nicholson
53 Pray Street
Tax Map 102/Lot 40
LU-25-160/Waterfront Business ("WB")/Historic District Overlay ("HD")

Dear Chair Eldridge and Zoning Board Members:

On behalf of Applicants, Kenneth & Rebecca Nicholson ("Nicholson"), we are pleased to submit this memorandum and attached exhibits in support of Zoning Relief from the Portsmouth Zoning Ordinance ("PZO") to allow reconstruction of an existing covered porch as an enclosed, year-round sunroom with roof deck, replace an impervious patio with permeable pavers, reconstruct the existing driveway with new brick or pavers, move the existing generator and concrete pad away from the Piscataqua River, and replace the existing fencing on the Property, including installing a decorative gate (the "Project"). Although the Project is confined to the home's existing footprint, relief is necessary because the sunroom renovation slightly expands the exterior volume on the existing dimensionally nonconforming structure and the proposed replacement fence with decorative gate may exceed front yard fence height restrictions.

I. EXHIBITS

A. Site Plan Set – Altus Engineering, Inc.
- Existing Conditions Plan
- Site Plan (Revised 12/1/25 and attached hereto)
- Elevations

B. Landscaping Design Plan – Woodburn & Company
(Revised 12/4/25 and attached hereto)

[1] Revisions to the original submission dated November 19, 2025 were completed on December 3, 2025 after consultation with Planning Staff. Review of the revised submission and further consultation with Planning Staff resulted in the need for this Second Revised Memorandum.
[2] Amended relief chart below

DANIEL C. HOEFLE | R. PETER TAYLOR | GREGORY D. ROBBINS | OF COUNSEL:
R. TIMOTHY PHOENIX | ALEC L. MCEACHERN | PETER V. DOYLE | SAMUEL R. REID
LAWRENCE B. GORMLEY | KEVIN M. BAUM | MONICA F. KIESER | JOHN AHLGREN
STEPHEN H. ROBERTS | JACOB J.B. MARVELLEY | STEPHANIE J. JOHNSON

C. Architectural Plan Set – Auger Building Company
- Existing Elevations
- Proposed Elevations

D. Site Photos.
E. Tax Map 102.
F. Conservation Commission Approval.
G. NHDES Administrative Completeness Notice.

II. PROPERTY/PROJECT

53 Pray Street is an undersized 4,356-s.f. lot containing a 1,191-s.f single family home, detached garage, and boathouse with six-foot (6') perimeter fence on the Piscataqua River ("the Property"). Located in the Waterfront Business District ("WB") and Historic District Overlay ("HD"), Nicholson proposes to convert an existing covered porch to a year-round sunroom of the same footprint, adding a roof deck and replace the existing 6' fencing in the front of the Property with a more attractive 6' cedar fence in the same location, including colonial caps and an eight-foot (8') arbor with decorative gate, and replace the existing fence in the side and rear of the property with a six-foot (6') cedar fence with two-foot (2') cedar picket above for a total of eight feet (8'). The front fence extends from the garage to the proposed sunroom, approximately 15' behind the front of the home. Because the existing porch is in the floodplain, the replacement sunroom will be raised 14.4" out of the floodplain with a finished floor elevation of 9.2'± to match the existing home's finished floor elevation, improving over existing conditions while also resulting in a slight expansion of its volume. The Project complies with height restrictions. Robust landscaping is proposed. Nicholson is scheduled for a hearing with the Historic District Commission to review the Project[3]. The Portsmouth Conservation Commission reviewed and approved the Project. **Exhibit F**. The New Hampshire Department of Environmental Services is reviewing Nicholson's application for wetland impact. **Exhibit G**. Due to the unique shape of

[3] A previous application to replace the fencing and screened porch and add a rooftop deck was approved by the Historic District Commission on May 9, 2025 (LU-25-21). The Project is substantially similar to the previously-approved concept.

the existing lot and its proximity to the Piscataqua River, only ±6-s.f. that complies with setback requirements. As a result, any reconstruction on the Property would require relief.

III. RELIEF REQUIRED

~~1. PZO §10.321 – Expansion of nonconforming structure – To permit replacement of an existing porch with an enclosed sunroom and deck above.~~[4]

1. PZO §10.521 – Table of Dimensional Standards – ~~To permit replacement of an existing porch with an enclosed sunroom and deck above where the existing porch is entirely within the required front, side, and rear yard setbacks.~~ To allow a 7.5' right side yard where 30' is required.

2. PZO §10.516.10 – Front Yard Exception for Existing Alignments – To allow a 6.5' front yard where 17' is required.

3. PZO §10.515.13 – Yards – To permit replacement in the same location of a six-foot (6') fence in the front yard with a six-foot (6') cedar plank fence with colonial enhancements and decorative eight-foot (8') arbor with gate where 4' is allowed.

IV. VARIANCE REQUIREMENTS

1. **The variances will not be contrary to the public interest.**
2. **The spirit of the ordinance is observed.**

The first step in the ZBA's analysis is to determine whether granting the variances is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting the variances "would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives." Id. "Mere conflict with the zoning ordinance is not enough." Id.

[4] Nicholson was advised by the Planning Department that relief from PZO §10.321 is not needed.

Portsmouth Zoning Ordinance ("PZO") Section 10.121 identifies the general purposes and intent of the ordinance "to promote the health, safety and general welfare of Portsmouth…in accordance with the…Master Plan." These purposes are accomplished by regulating:

- The use of land, buildings and structures for business, industrial, residential and other purposes – The Property will continue to support a residential use in a residential zone.
- The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – The Project is largely contained within the existing home's footprint, replacing existing structures on the Property, and does not increase the intensity of the lot's use.
- The design of facilities for vehicular access, circulation, parking and loading – No change.
- The impact on properties on of outdoor lighting, noise, vibration, stormwater runoff and flooding – The Project does not increase the impact of the existing home on outdoor lighting, noise, vibration, and improves over existing conditions related to stormwater runoff and flooding as an impervious patio will be replaced with permeable pavers, the proposed sunroom will be raised out of the floodplain, and the existing generator and concrete pad will be relocated farther from the Piscataqua River.
- The preservation and enhancement of the visual environment – The Project increases year-round living space and improves flood compliance while maintaining the existing footprint and character of the existing single-family home. The appearance of the Property is improved by replacing the existing 6' wooden fence in the front of the Property with a 6' cedar fence with period-appropriate colonial enhancements and an 8' arbor with decorative gate.
- The preservation of historic districts and building and structures of historic architectural interest – The Project will be reviewed by the Historic District Commission; however the Project honors the existing home's colonial history and enhances that history with period-appropriate design enhancements. The Historic District Commission previously approved a substantially similar project.[5]
- The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – The existing impervious patio will be replaced with permeable pavers and a robust landscaping plan is proposed, ensuring improved infiltration of stormwater runoff and an 8% reduction in impervious surfaces on the Property. The existing generator and concrete pad will be moved farther away from the Piscataqua River. The Project was approved by the Conservation Commission.

[5] See Supra, LU-25-21.

The intent of the WB Zone is to "to accommodate and support business uses that depend on the ocean or the Piscataqua River for transport or resources." PZO §10.410. Built in 1750, the existing home has been used as a residence for centuries and will continue to be used as a single-family residence, thus residential use of the lot is permitted. PZO §10.331. The Property is located in the Historic District Overlay, the stated purpose of which includes maintaining "the special character of the District as reflected in the scale, mass, location and style of buildings." PZO §10.631.20(2). Given that the Project preserves and enhances the historic features of the home without enlarging its existing footprint by upgrading portions of the existing structures on the Property, and that the intensity of the residential use of the lot will not increase, Nicholson's proposal is reasonable. The Project improves over existing conditions through stormwater management improvements including a robust landscaping plan, decreasing impervious surfaces on the lot by 8%, and moving the existing generator and concrete pad back from the Piscataqua River. Increased flood protection is an added benefit as the proposed sunroom will be lifted out of the floodplain and brought level with the home's existing finished floor elevation. Therefore, granting the requested variances will not conflict with the basic zoning objectives of the PZO.

In considering whether variances "in a marked degree conflict with the ordinance such that they violate the ordinance's basic zoning objectives," Malachy Glen, supra, also held: One way to ascertain whether granting the variance would violate basic zoning objectives is to determine whether it would alter the essential character of the locality… . Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

Pray Street is a very narrow lane extending from Marcy Street to the Piscataqua River. **Exhibit D**. Nicholson's home encroaches on all existing yard setbacks. **Exhibits A, D**. There is only ±6-s.f. of space available on the lot compliant with the PZO's setback requirements. Accordingly, this proposal, which: replaces an existing porch with a floodplain-compliant enclosed sunroom with roof deck; replaces an impervious patio with permeable pavers; includes robust landscaping; moves the existing generator and concrete pad away from the Piscataqua

River; and replacing a six-foot fence situated between the home and garage with an enhanced 6' cedar plank fence with colonial accents and 8' arbor with decorative gate, is in keeping with the surrounding area. The proposed design tastefully maintains the existing neighborhood aesthetic. There will also be no threat to the public health, safety, or welfare by granting the requested variances, which will enhance the historic character of the existing home while providing more year-round living space, and added flood protection. Clearly, the variances neither alter the essential character of the locality nor threaten the public health, safety, or welfare. Accordingly, granting the variances is not contrary to the public interest and observes the spirit of the ordinance.

3. **Substantial justice will be done by granting the variances.**

If "there is no benefit to the public that would outweigh the hardship to the applicant" this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011). That is, "any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice." Malachy Glen, supra at 109.

Nicholson is constitutionally entitled to the reasonable use of their land. For all of the reasons previously stated, it is entirely reasonable to convert the sunroom to a year-round living space and upgrade a fence/gate. "The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions." N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that "no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people." Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978). "Property" in the constitutional sense has been interpreted to mean not the tangible property itself, *but rather the right to possess, use, enjoy and dispose of it*. Burrows v. City of Keene, 121 N.H. 590, 597 (1981). (emphasis added).

The Supreme Court has held that zoning ordinances must be reasonable, not arbitrary and must rest upon some ground of difference having fair and substantial relation to the object of the regulation. Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727, 731 (2001); Chesterfield at 69.

The variances allow Nicholson to create year-round living space and beautify their property with improved living space, upgraded fencing, robust landscaping, and an 8% reduction in impervious surface and improved stormwater management without increasing the footprint of the existing home. The Project is visually consistent with and improves over the existing neighborhood's character and appearance while decreasing impervious surface and improving flood protection and on-site aesthetics. The Project fits the character of their existing neighborhood and honors the colonial home's original design. The Project replaces existing structures in essentially the same locations with upgraded and more functional and aesthetically pleasing elements. Thus, there is no gain to the public from denial of the variances. Conversely, Nicholson will be greatly harmed by denial of the variances because they will be unable to reasonably expand their living space and upgrade their fence for aesthetic, livability, and flood protection purposes. Accordingly, substantial justice will be done by granting the variances, while a substantial injustice will be imposed if denied.

4. Granting the variances will not diminish surrounding property values.

The Project provides a slight increase in sunroom volume while maintaining the perimeter of an existing nonconforming structure in a thickly settled, historic neighborhood with multiple nonconforming lots and structures. The Project improves existing conditions by elevating the structure out of the floodplain and providing year-round living space without expanding the home's footprint, while honoring the Property's colonial-era roots. Replacing the existing 6' front fence with the proposed 6'cedar fence with colonial accents and 8' arbor with decorative gate, supported by extensive landscaping, will beautify the Property, further increasing its aesthetics and value. Given the limited scope of the request, it is clear that granting the variances will not diminish surrounding property values.

5. Denial of the variances results in an unnecessary hardship.

a. Special conditions distinguish the property from others in the area.

At .105 acres, the Property is a very small, irregularly-shaped lot situated in a high-density historic neighborhood. The Property is developed with a colonial-era, nonconforming structure within all yard setbacks and abuts the Piscataqua River. A 6' fence and gate exists in the required front yard but set back substantially from the front of the home where 4' is allowed. Due to the PZO's dimensional requirements, leaving only ±6-s.f. of building envelope, any change to the Property would require similar relief. These circumstances combine to create special conditions.

b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

The purpose of setbacks, as well as limiting expansion of nonconforming residential structures, is to prevent overcrowding and overburdening of land, provide sightlines for pedestrians and motorists, ensure adequate light and air circulation, and provide sufficient area for stormwater treatment. None of these purposes are impaired by granting the requested variances. The nonconforming home already exists in the front, side, and rear yard setbacks. Square footage of the proposed year-round sunroom and roof deck does not increase while the increased volume related to the enclosed sunroom and deck does not require relief and is driven in large measure by flood compliance. The proposed sunroom and deck do not expand beyond the existing home's footprint and are compliant with height limitations.

The proposed front yard replacement of the existing 6' fence located behind the front of the home between the existing garage and screened-in porch. The proposal adds a decorative 8' arbor to enhance visual interest and improve aesthetics while conforming to the Property's colonial history. The design, and indeed the Project, was approved by the Conservation Commission, and a similar proposal was approved by the Historic District Commission[6].

[6] Id.

Moreover, due to the historic character of the neighborhood, it is densely developed with multiple nearby parcels non-conforming for setbacks. See Walker v. City of Manchester, 107 N.H. 382, 386 (1966) (Hardship may be found where similar nonconforming uses exist within the neighborhood and the proposed use will have no adverse effect on the neighborhood). See also Belanger v. City of Nashua, 121 N.H. 389 (1981) (Variance proper where ordinance no longer reflects the current character of neighborhood). Balancing the clearly minimal effect upon neighbors against the reasonable request to expand living space while maintaining the existing home's footprint and improving the existing fence, there is no fair and substantial relationship between the purposes of the setback requirements and their application in this instance.

c. The proposed use is reasonable.

There is no proposed expansion of the intensity of the Property's residential use. Indeed, the Project improves existing conditions by improving stormwater treatment and flood protection, upgrading the fence with historically-appropriate, colonial accents and a decorative gate, while confining the proposed enclosed sunroom and deck to the home's existing footprint. Approval by the Conservation Commission, and approval of a substantially similar design by the Historic District Commission on May 9, 2025, further demonstrates that the relief requested is reasonable.

V. CONCLUSION

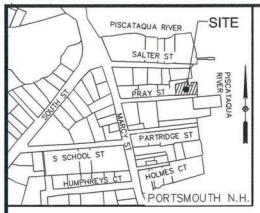
For all of the reasons stated, Nicholson respectfully requests that the Portsmouth Zoning Board of Adjustment grant the requested variances.

Respectfully submitted,

Kenneth & Rebecca Nicholson

By: R. Timothy Phoenix
Stephanie J. Johnson

EXHIBIT A (2nd Revision 12/1/25)



LOCUS

(N.T.S.)

NVSPC (NAD83)

REFERENCE PLANS:

1. "BOUNDARY LINE AGREEMENT PLAN TAX MAP 102 – LOTS 33 & 38." DATED JULY 6, 2010 AND PREPARED BY AMBIT ENGINEERING, INC. RCRD #D–36438.
2. "PLAN OF LOT #43 PRAY STREET." DATED AUGUST 1968 AND PREPARED BY JOHN W. DURGIN. ON THIS FILE WITH THIS OFFICE, JWD FILE #2366 PLAN #456.
3. "PLAN OF LAND, 445 MARCY STREET." DATED SEPTEMBER 1, 1994 AND PREPARED BY BY DURGIN, VERRA AND ASSOCIATES, RCRD #D–23172.
4. "SUBDIVISION PLAN 445 MARCY STREET." DATED OCTOBER 13, 2022 AND PREPARED BY JAMES VERRA & ASSOCIATES, RCRD #D–43569.
5. "PLAN OF LOTS, RUTH PRICE SILVA." DATED OCTOBER 2, 1980AND PREPARED BY KIMBALL CHASE, RCRD #D–9887.
6. "BOUNDARY SURVEY FOR ROBERT BYRNES AND PATRICIA TOBEY." DATED OCTOBER 13, 2004 AND PREPARED BY ALEX ROSS, RCRD #D–32044.
7. "STANDARD BOUNDARY SURVEY, WESTON." DATED AUGUST 2006 AND PREPARED BY AMBIT ENGINEERING, RCRD D–34272.
8. "DRIVEWAY AND ACCESS EASEMENT PLAN TAX MAP 102 – LOT 37." DATED DECEMBER 12, 2017 AND PREPARED BY AMBIT ENGINEERING, RCRD #D–40555.
9. WORKSHEETS AND FIELD NOTES OF JOHN W. DURGIN. ON THIS FILE WITH THIS OFFICE, JWD FILE #2366.
10. "PLAN OF PRAY STREET SHOWING LINES AS EXISTED IN 1905 AND 1939" DATED OCTOBER 13, 1939 PREPARED BY W.L. HASKELL. ON FILE WITH PORTSMOUTH DPW, FILE #T0404.
11. "CITY OF PORTSMOUTH, N.H. CONSTRUCTION DRAWING FOR SEWER SYSTEM IMPROVEMENTS, CONTRACT NO. 3, E.P.A. NO. C–330196–03." LAST REVISED MAY 1, 1980 AND PREPARED BY WRIGHT, PIERCE, BARNES & WAYMAN. ON FILE WITH PORTSMOUTH DPW FILE #11841.

SEWER TABLE

SMH# 1081
RIM EL=10.33'
(1) INV OUT 8"PVC= 3.35'

SMH# 1006
RIM EL=7.7'
(1) INV IN 8"PVC= 0.08'
(2) INV OUT 8"PVC= 0.05'

SMH# 1003
RIM EL=6.27'
(1) INV IN 8"PVC= 34.70'
(2) INV IN 8"PVC= 32.47'

NOTES:

1. OWNER OF RECORD:.....KENNETH J. NICHOLSON
.....REBECCA T. NICHOLSON
ADDRESS:.....12 CHAPEL, NORTH HAMPTON, N.H.
DEED REFERENCE:.....BK: 6597 PG: 495
TAX SHEET / LOT:.....102 / 40

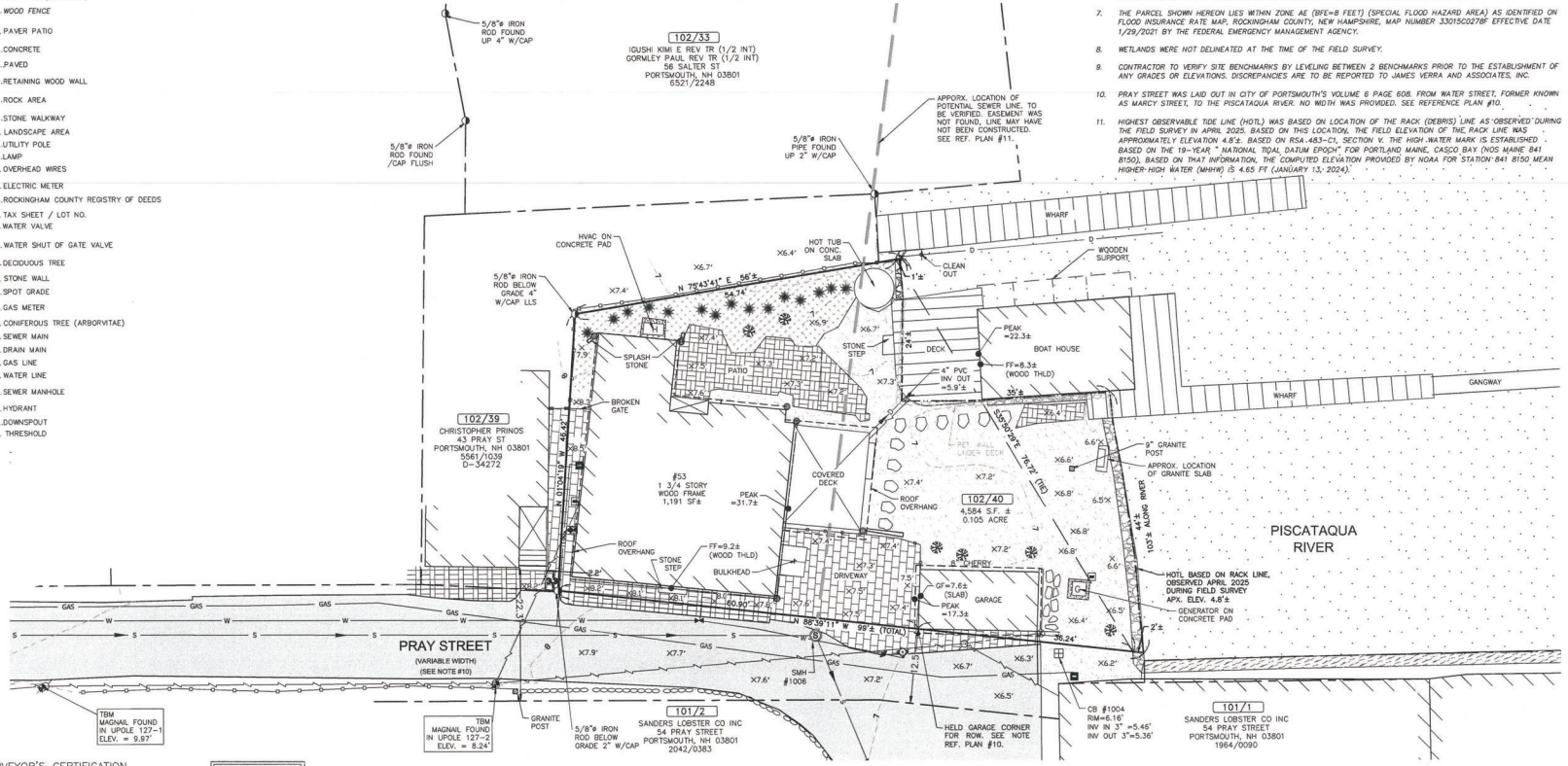
2. PORTSMOUTH ZONED:.....WATERFRONT BUSINESS (WB), OVERLAY HISTORIC DISTRICT (HD)

MIN. LOT AREA:.....20,000 S.F.	FRONT YARD SETBACK:.....30'*
FRONTAGE:.....100'	SIDE & REAR YARD SETBACK:.....30' & 20'
DEPTH.....100'	LOT COVERAGE:.....30%
BUILDING COVERAGE:.....20%	HEIGHT:.....35'
*THE AVERAGE ALIGNMENTS.....(3.04'+30')/2 = 17'	
WETLAND BUFFER:.....100'	
VEGETATED BUFFER STRIP:.....25'	LIMITED CUT AREA:.....50'
PROTECTED SHORELAND (STATE BUFFER):....250'	

3. THE INTENT OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS OF THE SUBJECT PARCELS AND THE IMPROVEMENTS THEREON FOR FUTURE SITE DESIGN AND PERMITTING.
4. THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES ETC.) AND INFORMATION COMPILED FROM PLANS OF RECORD, AND PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG–SAFE @ 1–888–DIG–SAFE.
5. HORIZONTAL DATUM: NAD83, VERTICAL DATUM: NAVD88. ESTABLISHED BY SURVEY GRADE GPS OBSERVATIONS. UNITS: US SURVEY FOOT.
6. THE PLAN IS BASED UPON A FIELD SURVEY COMPLETED ON MARCH 10, 2025 WITH TRIMBLE S5 ROBOTIC TOTAL STATION, CARLSON BRX7 RTK GPS UNITS, PANASONIC FZ–M1/TRIMBLE TSC7 DATA COLLECTORS.
7. THE PARCEL SHOWN HEREON LIES WITHIN ZONE AE (BFE=8 FEET) (SPECIAL FLOOD HAZARD AREA) AS IDENTIFIED ON FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, MAP NUMBER 33015C0278F EFFECTIVE DATE 1/29/2021 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
8. WETLANDS WERE NOT DELINEATED AT THE TIME OF THE FIELD SURVEY.
9. CONTRACTOR TO VERIFY SITE BENCHMARKS BY LEVELING BETWEEN 2 BENCHMARKS PRIOR TO THE ESTABLISHMENT OF ANY GRADES OR ELEVATIONS. DISCREPANCIES ARE TO BE REPORTED TO JAMES VERRA AND ASSOCIATES, INC.
10. PRAY STREET WAS LAID OUT IN CITY OF PORTSMOUTH'S VOLUME 6 PAGE 608. FROM WATER STREET, FORMER KNOWN AS MARCY STREET, TO THE PISCATAQUA RIVER. NO WIDTH WAS PROVIDED. SEE REFERENCE PLAN #10.
11. HIGHEST OBSERVABLE TIDE LINE (HOTL) WAS BASED ON LOCATION OF THE RACK (DEBRIS) LINE AS OBSERVED DURING THE FIELD SURVEY IN APRIL 2025. BASED ON THIS LOCATION, THE FIELD ELEVATION OF THE RACK LINE WAS APPROXIMATELY ELEVATION 4.8'±. BASED ON RSA 483–C:1, SECTION V. THE HIGH WATER MARK IS ESTABLISHED BASED ON THE 19–YEAR " NATIONAL TIDAL DATUM EPOCH", FOR PORTLAND MAINE, CASCO BAY (NOS MAINE 841 8150), BASED ON THAT INFORMATION, THE COMPUTED ELEVATION PROVIDED BY NOAA FOR STATION 841 8150 MEAN HIGHER–HIGH WATER (MHHW) IS 4.65 FT (JANUARY 13, 2024).

LEGEND:

- GUY
- IRON PIPE (AS NOTED)
- WOOD FENCE
- PAVER PATIO
- CONCRETE
- PAVED
- RETAINING WOOD WALL
- ROCK AREA
- STONE WALKWAY
- L.S.A. LANDSCAPE AREA
- UTILITY POLE
- LAMP
- OVERHEAD WIRES
- ELECTRIC METER
- RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS
- 101–03 TAX SHEET / LOT NO.
- WATER VALVE
- WATER SHUT OF GATE VALVE
- DECIDUOUS TREE
- STONE WALL
- X 51.7' SPOT GRADE
- GAS METER
- CONIFEROUS TREE (ARBORVITAE)
- S SEWER MAIN
- D DRAIN MAIN
- GAS GAS LINE
- W WATER LINE
- SEWER MANHOLE
- HYDRANT
- DOWNSPOUT
- THLD. THRESHOLD



SURVEYOR'S CERTIFICATION

"I HEREBY CERTIFY THAT THIS SURVEY AND PLAT WERE PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION AND IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND AND HAS AN ERROR OF CLOSURE OF GREATER ACCURACY THAN ONE PART IN FIFTEEN THOUSAND (1:15,000)."

LICENSED LAND SURVEYOR — DATE 11/11/25

STATE OF NEW HAMPSHIRE — No. 1054 — IRVAN M. FOWLER — LICENSED LAND SURVEYOR — SIGNATURE

GRAPHIC SCALE

10' 0 5' 10' 20' 40'

(IN FEET)
1 inch = 10' ft.

ALTUS JOB#5673

SURVEYOR:
JVA
JAMES VERRA & ASSOCIATES, INC
101 SHATTUCK WAY, SUITE 8,
NEWINGTON, N.H., 03801–7876
603–436–3557
JOB NO: 25–2018

ENGINEER:
ALTUS ENGINEERING
133 Court Street Portsmouth, NH 03801
(603) 433-2335 www.altus-eng.com

ISSUED FOR:
PERMITTING

ISSUE DATE:
11/11/2025

REVISIONS

NO.	DESCRIPTION	BY	DATE
1	ADD HOTL & NOTE 11	RMF	11/11/25

DRAWN BY: DK
APPROVED BY: RMF
DRAWING FILE: 25–2018 ALTUS 53 PRAY ST.DWG

SCALE:
22" x 34" – 1" = 10'
11" x 17" – 1" = 20'

APPLICANT:
KENNETH J. NICHOLSON
REBECCA T. NICHOLSON
12 CHAPEL ROAD
NORTH HAMPTON
NEW HAMPSHIRE

OWNER:
KENNETH J. NICHOLSON
REBECCA T. NICHOLSON
12 CHAPEL ROAD
NORTH HAMPTON
NEW HAMPSHIRE

PROJECT:
53 PRAY
TAX MAP 102, LOT 40
STREET
PORTSMOUTH
NEW HAMPSHIRE

TITLE:
EXISTING CONDITIONS PLAN

SHEET NUMBER:
S-1

I:\2025 PROJECTS\25–2018 ALTUS 53 PRAY ST PORTSMOUTH NH_DWG\25–2018_EXCON.dwg 2025–11–11

WETLANDS PERMIT APPLICATION NOTES

1. DESIGN INTENT – THIS PLAN SET IS INTENDED TO DEPICT THE AREAS OF IMPACT WITHIN THE 100-FOOT WETLAND BUFFER TO RENOVATE THE SINGLE FAMILY RESIDENCE; REPLACE THE NEW COVERED PORCH, ADD A ROOF TOP DECK ABOVE, REPLACE EXISTING PATIOS AND DRIVEWAY CONNECTION ALONG WITH LANDSCAPING & ASSOCIATED UTILITIES.
2. SEE EXISTING CONDITIONS PLAN (PLAN REFERENCE 1).
3. HIGHEST OBSERVABLE TIDE LINE (REFERENCE LINE) IS THE EDGE OF STONE SEAWALL. NO WORK IS PROPOSED IN THE PISCATAQUA RIVER.
4. EXISTING IMPERVIOUS AREAS WITHIN THE 100' WETLAND BUFFER ARE AS FOLLOWS: EX. RESIDENCE/COVERED DECK (1410 SF) + EX. BULKHEAD (25 SF) + EX. GARAGE (200 SF) + EX. PAVER DRIVE (345 SF) + EX. STONE & BRICK WALKS (200 SF) + EX. STEPS/CURBS/WALLS (172 SF) + PATIO (280 SF) + CONCRETE PADS (70 SF) + EX. CRUSHED STONE (±112 SF) = ±2,824 SF TOTAL (±61.6% OF THE PARCEL)
5. PROPOSED IMPERVIOUS AREAS WITHIN THE 100' WETLAND BUFFER ARE AS FOLLOWS: EX. RESIDENCE/SUN PORCH/DECK (1,410 SF) + PROP. BULKHEAD (25 SF) + EX. GARAGE (200 SF) + PROP. BRICK DRIVE (345 SF) + EX. STONE & BRICK WALKS (165 SF) + EX. STEPS/CURBS/WALLS (152 SF) + PROP. EDGING (20 SF) + PROP. CRUSHED STONE (112 SF) + HVAC & EM. GENERATOR CONC. PADS (30 SF) = 2,459 SF TOTAL (±53.6% OF THE PARCEL) THEREFORE AN IMPROVEMENT.
6. THE CONTRACTOR SHALL OBTAIN A "DIGSAFE" NUMBER AT LEAST 72 HOURS PRIOR TO COMMENCING CONSTRUCTION.
7. EXISTING RESIDENCE IS SERVICED WITH MUNICIPAL SEWER & WATER.
8. PARCEL IS LOCATED ENTIRELY WITHIN ZONE AE (BFE=8 FEET) (SPECIAL FLOOD HAZARD AREA) AS IDENTIFIED ON FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, MAP NUMBER 33015C0278F DATED 1/29/2021 BY FEDERAL EMERGENCY MANAGEMENT AGENCY.

ZONING SUMMARY

TAX MAP 102, LOT 40
OWNER: REBECCA T. & KENNETH J. NICHOLSON
12 CHAPEL ROAD
NORTH HAMPTON, NH 03862

ZONING DISTRICTS: WB (WATERFRONT BUSINESS), HD (OVERLAY HISTORIC DISTRICT)

PERMITTED USES: SINGLE FAMILY DWELLING STRUCTURE PERMITTED.

DIMENSIONAL REQUIREMENTS:

	REQUIRED	EXISTING ±4,584 SF (1.08 AC.)	PROPOSED ±4,584 SF
MIN. LOT AREA:	20,000 S.F.		
MIN. FRONTAGE:	100'	±99'	±99'
MIN. DEPTH:	100'	±45'	±45'
FRONT SETBACK:	30' (17')*	±2'	±2' (EX. HOUSE)
		±0'	±0' (EX. GARAGE)
SIDE SETBACK:	30'	±2'	±2'
REAR SETBACK:	20'	±4'	±4'

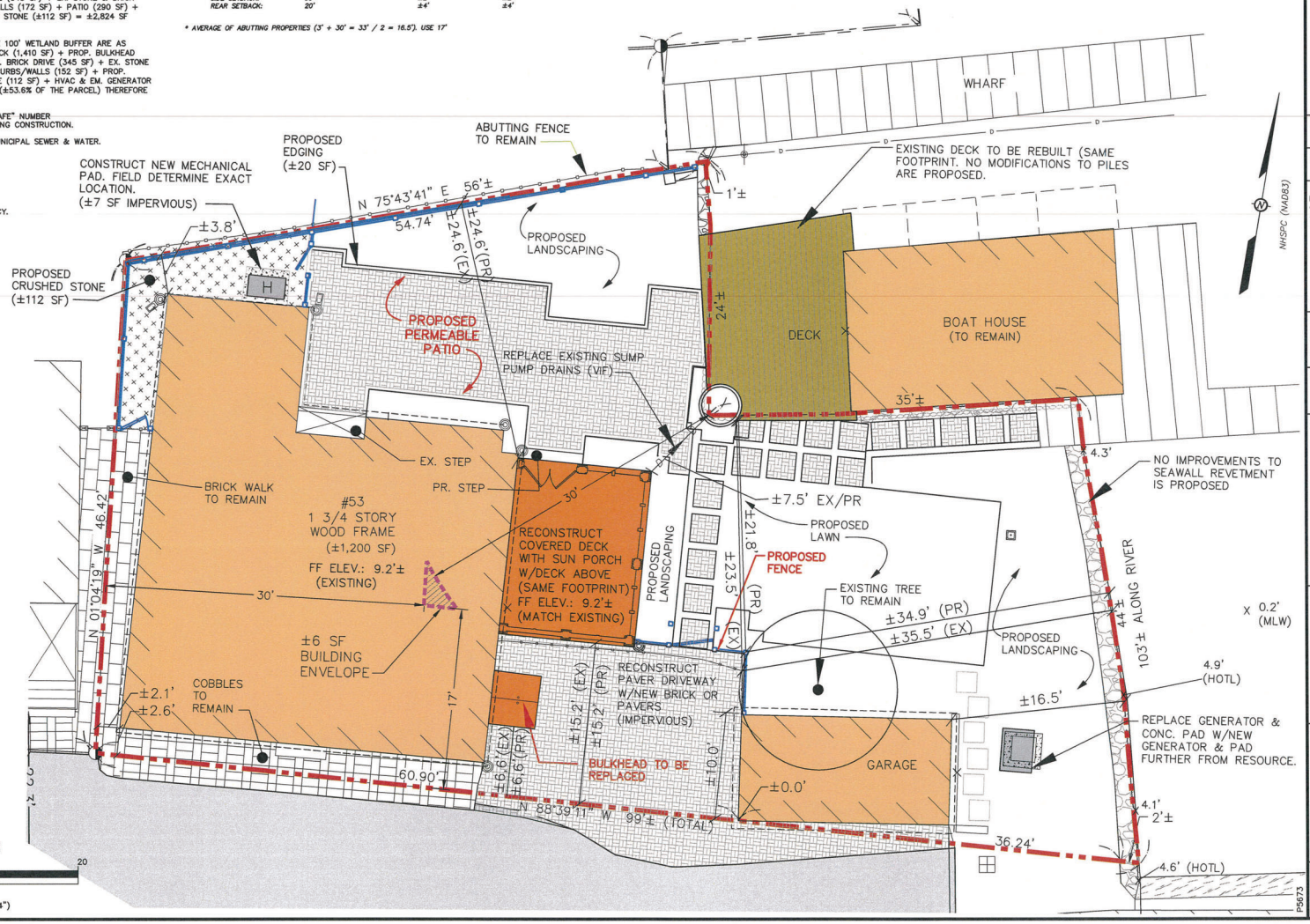
* AVERAGE OF ABUTTING PROPERTIES (3' + 30' = 33' / 2 = 16.5'). USE 17'

LEGEND

- EXISTING STRUCTURE TO REMAIN
- EXISTING STRUCTURE TO BE RECONSTRUCTED
- D — EXISTING SUMP PUMP DRAIN (TO BE REPLACED)

REFERENCE PLANS:

1. "EXISTING CONDITIONS PLAN, 53 PRAY STREET, TAX MAP 102, LOT 40, PORTSMOUTH, NH", DATED JULY __, 2025 AND PREPARED BY JAMES VERRA & ASSOCIATES, INC.
2. SITE VISIT BY ALTUS ENGINEERING, LLC ON APRIL 28, 2025.



GRAPHIC SCALE
5 0 2.5 5 10 20
(IN FEET)
1 INCH = 5 FEET (22" X 34")

ENGINEER:
ALTUS ENGINEERING
133 Court Street Portsmouth, NH 03801
(603) 433-2335 www.altus-eng.com

ERIC D. WEINREB No. 7634 LICENSED PROFESSIONAL ENGINEER – STATE OF NEW HAMPSHIRE
12/1/25

ISSUED FOR: APPROVAL

ISSUE DATE: DECEMBER 1, 2025

REVISIONS

NO.	DESCRIPTION	BY	DATE
0	INITIAL SUBMISSION	EDW	11/18/25
1	ADD ADDITIONAL DIMS. PER PLANNING DEPT.	EDW	12/01/25

DRAWN BY: RLH
APPROVED BY: EDW
DRAWING FILE: 5673-EDW.DWG

SCALE:
22" x 34" – 1" = 5'
11" x 17" – 1" = 10'

APPLICANT:
KENNETH J. NICHOLSON
REBECCA T. NICHOLSON
12 CHAPEL ROAD
NORTH HAMPTON
NEW HAMPSHIRE 03862

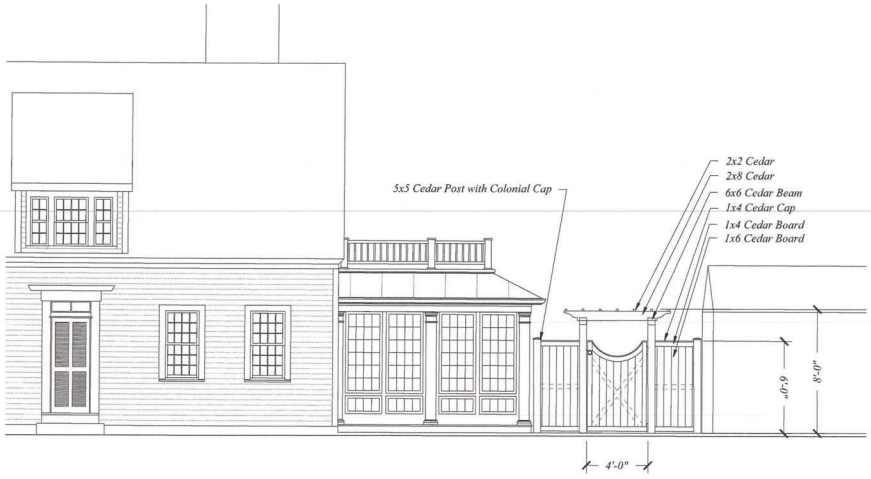
OWNER:
KENNETH J. NICHOLSON
REBECCA T. NICHOLSON
12 CHAPEL ROAD
NORTH HAMPTON
NEW HAMPSHIRE 03862

PROJECT:
53 PRAY STREET
TAX MAP 102, LOT 40
PORTSMOUTH NEW HAMPSHIRE

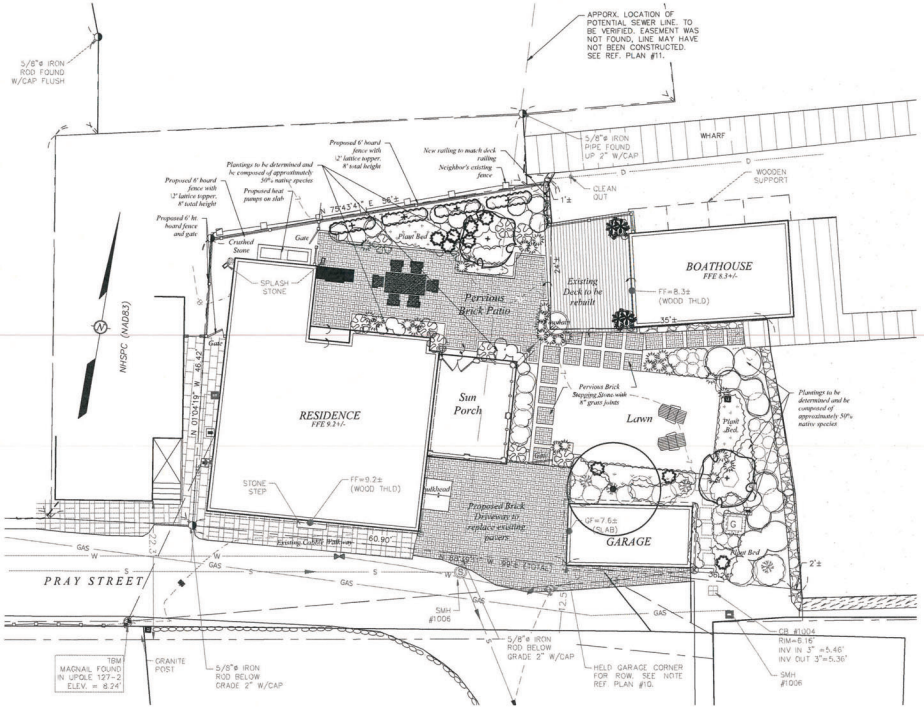
TITLE:
BOARD OF ADJUSTMENT SITE PLAN

SHEET NUMBER:
1 OF 1

P5673

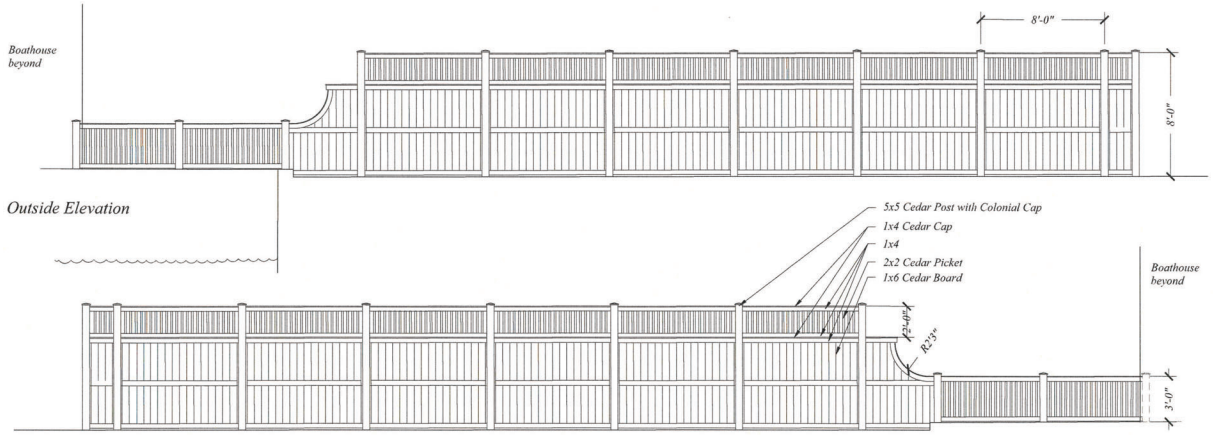


Front Gate - Elevation



0 2 5 10 20

Plan



Front Gate - Proposed Cedar Fence

woodburn & company
LANDSCAPE ARCHITECTURE
103 Kent Place Newmarket, New Hampshire Phone: 603.659.5949

REVISED EXHIBIT B

53 Pray Street

PRELIMINARY LANDSCAPE PLAN

Portsmouth, New Hampshire

AUGER BUILDING COMPANY

Drawn By:	RW
Checked By:	RW
Scale:	scale
Date:	2025-09-10 FOR REVIEW
Revisions:	2025-10-03 ISSUED TO ALTUS 2025-10-09 elevation update 2025-10-24 bulkhead, brick and plantings 2025-11-18 ISSUED FOR ZBA 2025-12-04 Heat Pumps

L-1

Sheet x of X

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III. NEW BUSINESS

E. The request of **Chase Home for Children C/O Woodman (Owners),** for property located at **698 Middle Road** whereas relief is needed to construct a new facility on the property which requires the following: 1) Variance from Section 10.334 to allow the residential care facility use to be extended to another part of the remainder of the land, 2) Variance from Section 10.440 to allow for the construction of a new residential care facility structure. Said property is located on Assessor Map 232 Lot 45 and lies within the Single Residence B (SRB) District. (LU-25-167)

Existing & Proposed Conditions

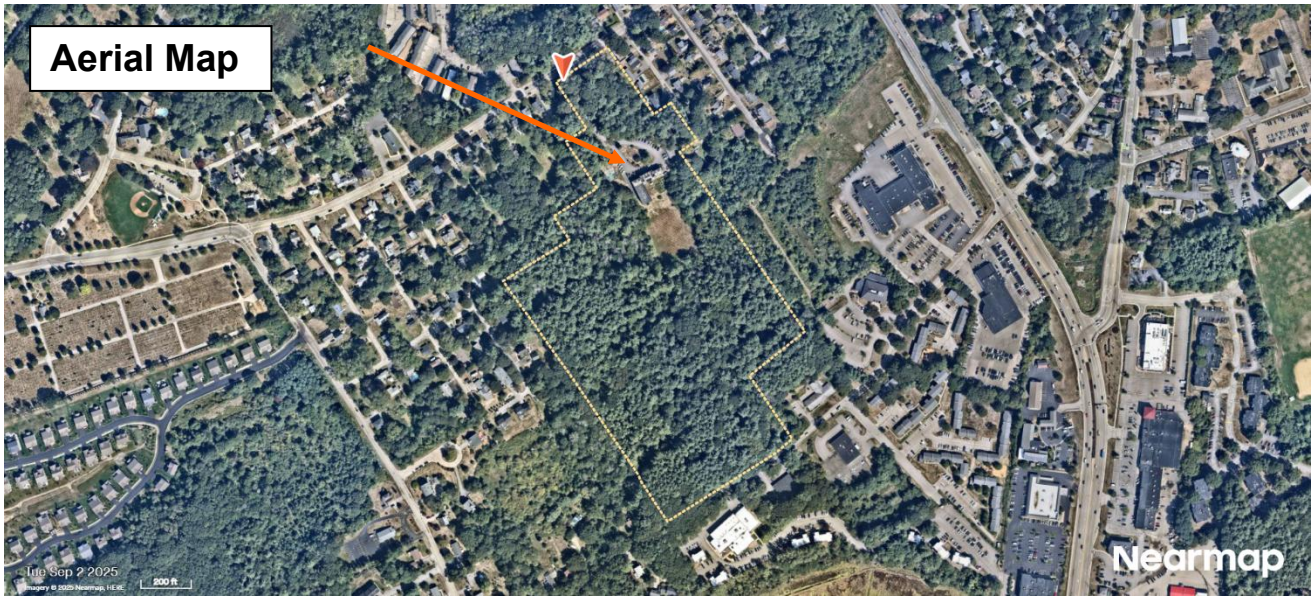
	Existing	Proposed	Permitted / Required
Land Use:	Group Care Facility	New Building for Group Care Facility	Primarily residential
Estimated Age of Structure:	1917	Variance request(s) shown in red.	

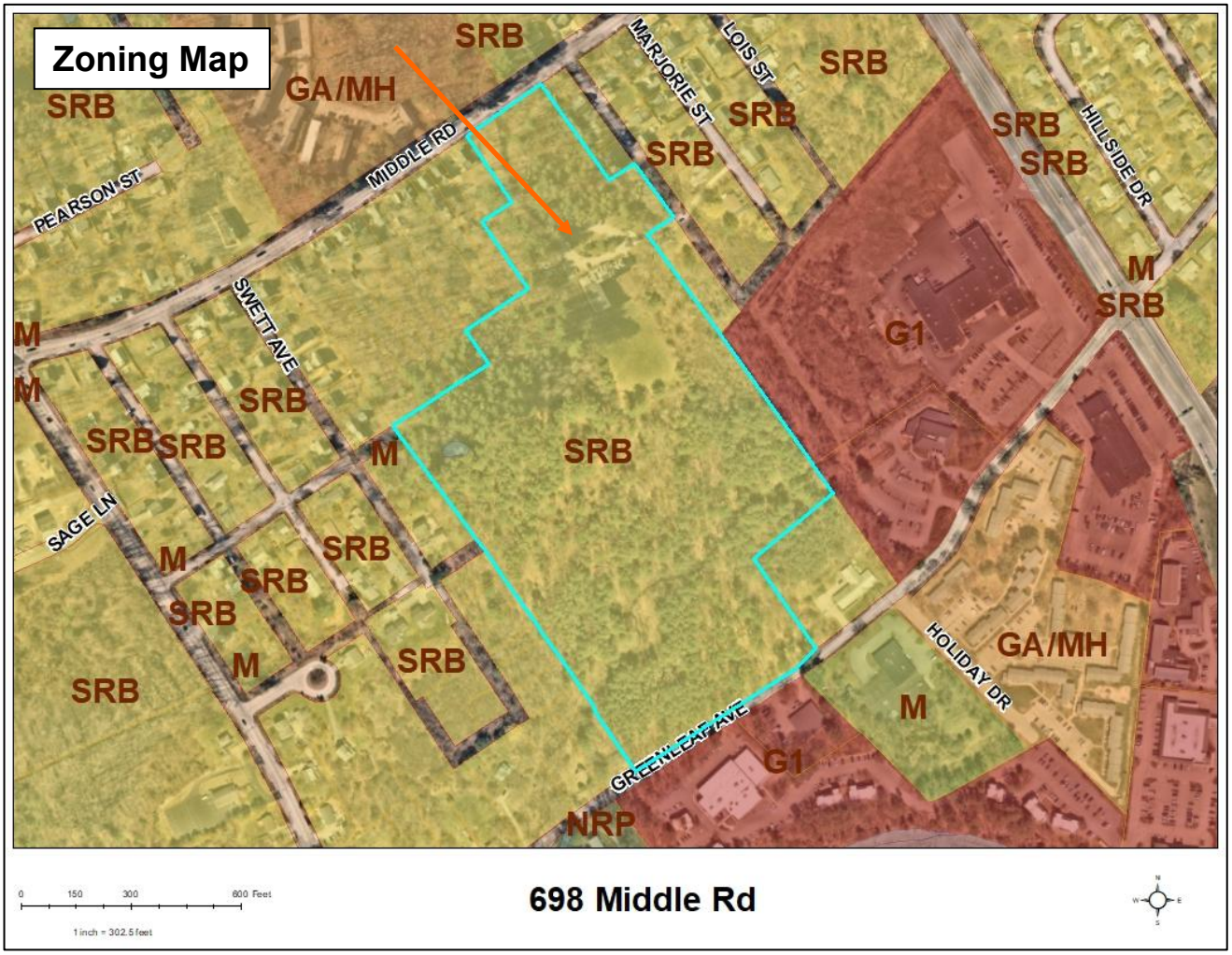
*Variance from Sections 10.440 and 10.334 to allow the current use to continue and expand on the property

Other Permits/Approvals Required

- Building Permit

Neighborhood Context





Previous Board of Adjustment Actions

No previous history found

Planning Department Comments

The property currently has one building for group care services and the proposal is to construct a new care facility to house the services. At this time, it is unclear what will happen to the existing structure. The Board may wish to explore clarifying the use of the existing facility once services are moved so it is clear to staff and the applicant if future relief will be needed.

Variance Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a) The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR
   Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

DURBIN LAW

Derek R. Durbin, Esq.
603.287.4764
derek@durbinlawoffices.com

BY: VIEWPOINT & HAND DELIVERY

November 19, 2025

City of Portsmouth
Attn: Stefanie Casella, Planner
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

RE: Variance Application of Chase Home for Children of Portsmouth, N.H.
696 Middle Road, Tax Map 232, Lot 45

Dear Stefanie,

Please find a copy of the following materials relative to the above referenced variance application filed through Viewpoint for property located at 698 Middle Road, Portsmouth (the "Property"):

1) Landowner Letter of Authorization
2) Narrative to Variance Application with Exhibits
3) Existing and Proposed Conditions Plan Set
4) Floor Plans and Elevations
5) Photographs of the Property

A copy of the above application materials is being delivered to the Planning Department. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,

Derek R. Durbin, Esq.

CITY OF PORTSMOUTH
VARIANCE APPLICATION NARRATIVE

Chase Home for Children in Portsmouth, N.H.
(Owner/Applicant)

698 Middle Road
Portsmouth, NH 03801
Tax Map 232, Lot 45

INTRODUCTION / BACKGROUND

The Property

The Chase Home for Children in Portsmouth, N.H (aka "Chase Home") is a non-profit corporation founded in 1877 that owns the property at 698 Middle Road in Portsmouth (the "Property"). The Property is a 26.43 acre improved parcel of land situated within the Single Residence B ("SRB") Zoning District. Most of the Property consists of wetlands and is encumbered by Portsmouth's 100' wetland buffer. **Exhibit A**. In fact, approximately 23% is encumbered by wetland and 45% is encumbered by the 100' wetland buffer. The only developable area of the Property, which is where the existing improvements are, is at the front northwest corner of the Property along Middle Road.

The Property contains a 6,461 square foot, L-shaped, two-story brick building with a colonial revival design that houses the Chase Home (the "Chase Home Building"). There is also a one-story detached garage adjacent to the Chase Home Building. The Chase Home Building was constructed in 1916 and has served as the home for the Chase Home organization since 1917. The Chase Home provides a myriad of services to at-risk youth and their families, as more specifically discussed below. The existing use of the Property, as a *residential care facility*, is non-conforming to SRB Zoning. It predates the adoption of SRB Zoning in Portsmouth.

Existing Use of Property

The Chase Home has a long, rich history of providing trauma-informed residential and community-based support services to at-risk youth and their families. Through its comprehensive programs, it aims to foster a nurturing environment that promotes healing, growth, and independence for youth in need. The Chase Home has four (4) general programs through which it provides its services, as outlined and explained below:

1. Residential Treatment
2. Home-Based Treatment
3. Community Diversion
4. Independent Living

Residential Treatment Services Program

The *Residential Treatment Program* provides intensive therapeutic support and care for youth (ages 11-18) referred through the Department of Children Youth and Families (the "DCYF") system to those who have suffered early adversity and trauma and are unable to have their needs safely met at home. The goal of the program is to help youth (and their families) develop healthy coping skills and healing relationships to ensure successful transition back to the youth's community and family-based setting as soon as possible.

Home-Based Treatment Program

The *Home-Based Program* services youth up to 18 years of age and their families. The program provides customized behavioral management and therapeutic services to youth and their families in crisis. These services are available in the community and inside the homes where youth live with their families. The program is designed to prevent placement in the *Residential Treatment Services Program* or in the alternative, to assist youth in their transition back from the *Residential Treatment Services Program* to a community and family-based setting.

Seacoast Community Diversion Program

The *Seacoast Community Diversion Program* uses restorative justice-based principles to divert youth from the traditional juvenile justice system. The program provides therapeutic diversion, motivational interviewing, and substance abuse counseling to youth who have committed minor criminal offenses and offers support for their families. Successful completion of the 12-week restorative justice program results in the expungement of criminal offense(s), preventing youth from entering the juvenile justice system.

Independent Living Program

The Chase Home's *Independent Living Program* provides at-risk youth ages 18-21 with supportive services designed to equip them with the skills and resources necessary to transition into independent living within the community. These young adults reside in their own independent living space ("apartment") within the Chase Home Building and receive essential life skills training focused on building independence, self-confidence and resilience.

The Chase Home Building serves as the primary residential address for many of the youth receiving services from the organization. Most of the youth reside in the building for eight (8) months to two (2) years. However, there are instances where youth may stay for less or greater time based on their circumstances and the services they are receiving. For example, the youth in the *Independent Living Program* are typically in residence for a period of 2-4 years, as they prepare to transition into living on their own in the community.

Each youth in the building has their own bedroom. Within the Chase Home Building, there are eighteen (18) bedrooms within two (2) separate male and female youth dormitories. There are also four (4) independent living spaces on the second floor of the Chase Home Building that function as apartments for youth that are transitioning to living on their own in the community and receiving essential life skills training. In addition to the bedrooms and independent living spaces, there are shared common spaces within the Chase Home Building that are open to all residents to use. The Chase Home Building also contains office space for the staff, recreational space (basketball court and gym), a kitchen and dining area, telehealth and diversion rooms, and a family area for the residents to use.

All youth residing in the Chase Home receive services in some form, which may include the following:

- Therapeutic support and clinical care
- Administration of daily medication
- Provision of daily meals (there is a kitchen manager onsite)
- Recreation (there is a basketball court and weight room in the building
- Education and Teaching of Daily Life Skills

In addition to the youth residents, there are approximately thirty (34) full-time and part-time staff that work within the Chase Home Building. The Chase Home Building is open and staffed 24/7.

Existing Chase Home Building

The Chase Home Building has served its intended purpose and then some since 1917 and suffers from a significant degree of physical and functional obsolescence. The building is tired and needs a "head to toe" renovation to be brought up to current building code and to provide ADA accessibility, which may not be feasible due to the costs associated with such an undertaking. In the alternative, the building will need to be demolished, which is the more likely outcome. The building passes inspection every year at the State and Local level, but the organization is constantly taking a band-aid approach to repair or fit-up the building so that it can continue to provide its services without interruption. For example, the utilities and piping in the building are anticipated and require constant maintenance and repair.

There are also many aspects of the building that make it challenging for the organization to successfully carry out its programs and services. There is not sufficient space for private therapy and telehealth sessions and for families and children to meet privately. The rooms they have that are dedicated for this purpose are also disjointed and on different floors. The walls are also "thin" and lack any type of soundproofing, which is needed for the therapy and telehealth sessions that occur within the existing building. The existing building also lacks sufficient staff training, office and meeting space. Many of the staff offices have been repurposed from bedrooms and the third floor of the building was once the "children's infirmary" and is now offices for the management team. The dormitories and bedrooms were built several decades ago and have an institutional look and feeling to them (i.e. metal doors, long dark hallways, etc.), reminiscent of a hospital. The bedrooms are isolated from staff offices, which presents safety concerns. There is only one (1)

shared dorm bathroom in each of the dormitories. Therefore, only one resident can use the bathroom at a time.

Proposed New Building

Unfortunately, even if a renovation of the existing Chase Home Building is economically feasible, it would require the vulnerable youth residents to be displaced and would create a major disruption in their lives and in the continuity of services being offered to them. Accordingly, the Chase Home is proposing the construction of a new, two (2) story building on the Property while continuing to provide the same living arrangements and services it does now in the existing building without interruption. Once the new building is constructed, the youth residents will move over to the new building and begin receiving services there.

The floor plan for the proposed building calls for fourteen (14) individual bedrooms, two (2) studio units and two (2) independent, (2-bedroom) living units (20 total beds). The proposed building will be larger than the existing building to accommodate the actual living and programming-related space that is needed for the Chase Home to successfully carry out its programs and services. There will be dedicated diversion rooms, a family area, recreational areas, telehealth rooms, staff office and meeting space, laundry rooms, and larger independent living spaces with their own bathrooms. The building will also be ADA compliant, which the existing building is not.

Future Expansion of Existing Use

Following construction of the new building, the Chase Home intends to evaluate whether the existing building can be rehabilitated or should be demolished. If the building is demolished, the Chase Home would like to construct a new building in approximately the same location as the existing building of an equivalent or lesser size. Regardless of whether the existing building is rehabilitated or demolished and rebuilt, the Chase Home's intention is to provide services that are mission-aligned and are consistent with the programming provided for in the existing building. This would allow the organization to provide services to more at-risk youth and families in the community. As it stands now, the need for services in the community exceeds what the Chase Home can provide.

Because the Chase Home will be relocating and expanding the existing non-conforming residential care facility use on the Property, variances are required from **Sections 10.331** and **10.334** of the Portsmouth Zoning Ordinance (the "Zoning Ordinance").

SUMMARY OF ZONING RELIEF

The Applicant seeks the following variances from the Zoning Ordinance as determined by the City of Portsmouth:

1) Variance from Section 10.334 to allow the residential care facility use to be extended to another part of the remainder of the land.

2) Variance from Section 10.440 to allow for the construction of a new residential care facility structure.

VARIANCE CRITERIA

Granting the variances will not be contrary to the spirit and intent of the Zoning Ordinance or the public interest.

In the case of Chester Rod & Gun Club, Inc. v. Town of Chester, the Court noted that since the provisions of all ordinances represent a declaration of public interest, any variance will, in some measure, be contrary to the ordinance, but to be contrary to the public interest or injurious to public rights of others, "the variance must 'unduly, and in a marked degree' conflict with the ordinance such that it violates the ordinance's 'basic zoning objectives." "Id. The Court observed that "[t]here are two methods of ascertaining whether granting a variance would violate an ordinance's basic zoning objectives: (1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative; and (2) examining whether granting the variance would threaten the public health, safety, or welfare." Id.

The Property is one of the largest parcels of land in Portsmouth and is uniquely situated Because of its unique size and location, it is surrounded by a mixture of uses, including single-family residential, multi-family, condominium, commercial and municipal uses. The Property abuts three (3) different zoning districts: Gateway 1 ("G-1", Municipal ("M"), and Garden Apartment / Mobile Home Park ("GA/MH"). **Exhibit B**.

The area where the proposed building will be situated is directly abutted by single-family homes to the west and east. However, it will also be directly abutted to the north by the Riverbrook Condominium complex, which contains over seventy (70) garden style apartment units, and represents a higher intensity use than what is proposed. The remainder of the Property outside of the developable upland is surrounded by a combination of residential, commercial and municipal uses.

The abutting single-family homes to the east and west are situated a considerable distance from where the new building is proposed. At its closest point, the proposed building will be situated approximately 60'-65' from the property lines of the two nearest abutting properties to the east. However, it will be situated much further from the homes on both of these properties, which are also buffered by a relatively dense treeline and vegetation. The Chase Home intends to leave the trees and other vegetation outside of the construction envelope intact and add some supplemental landscaping for additional buffering and screening of the proposed building.

Prior to filing the foregoing Variance Application with the Board, the Chase Home invited all abutting property owners to meet with it. It held separate meetings in April and September to receive feedback and met with several individually before, between and after these meetings. It not only considered the input it received from the neighbors that met with it over the course of several months, but it made significant substantive changes to its plans from what was originally proposed. It modified the design, orientation, and location of the proposed building in response to the feedback it got. By way of example, the proposed building was originally 34' at its closest point to the nearest abutting property lines to the east. It moved the proposed building 26'-31' further away from these properties and angled it so that the bulk of the proposed building is more than 100' away. It also moved and reduced the parking areas proposed along the easterly and westerly property boundaries in response to input it received. Fast, tall growing trees were also added along the easterly boundary in response to concerns from one of the abutting property owners to the east.

The Chase Home has made a thoughtful and conscious effort with the design, location and orientation of the building and related features to minimize impacts to surrounding properties. While some level of impact can be expected with any construction of this type, the proposed building will ultimately preserve the light, air, and space of the abutting properties, as well as the general character of the area.

The proposed expansion of the *residential care facility* use of the Property will not alter the essential character of the "neighborhood" or surrounding area, which cannot be defined by one particular use. The Chase Home has existed in harmony with the surrounding area since 1917, long before Portsmouth adopted its first Zoning Ordinance and the abutting properties on Sylvester Street and several other abutting properties were developed. It intends to continue this existence and relationship with the surrounding area.

Finally, the proposed expansion of use is not detrimental to public health, safety and welfare. To the contrary, the Chase Home provides an important community service that fulfills a critical need that is beneficial to public health, safety and welfare. In addition, the proposed building will provide a safer, more functional, trauma-informed environment for the Chase Home residents that is code compliant and ADA accessible, which the existing building does not provide.

Substantial Justice will be done in granting the variances.

To determine whether substantial justice is done, the Board must balance the equities between the rights of a private landowner and the public interest in deciding whether to grant or deny a variance request. The "only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997); Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102 (2007).

It would constitute a loss to the Chase Home if the variances were denied. There is no feasible alternative area of the Property to locate the proposed building and parking areas. A denial of the variances would mean that the Chase Home must either renovate the existing building or demolish and construct a new building of equivalent or lesser size in the same footprint. Either

scenario would displace the at-risk youth residents for a significant period of time and lead to an interruption of the services that the Chase Home provides. Many of the at-risk youth are already coming from unstable home environments and need stability, continuity and consistency in their lives. Even if the existing building could be renovated or re-constructed in the same footprint without displacing the youth residents, this does not cure the Chase Home's need for additional space to successfully and responsibly carry out its programs and services and meet the needs of the community. What is proposed is a reasonable solution to a very real problem that balances the interests of the public with the Chase Home's immediate and future needs. For these reasons, the loss to the Chase Home outweighs any gain to the public in denying the variances.

Surrounding property values will not be diminished by granting the variances.

As stated above, the Property has been used as a *residential care facility* since 1917, long before zoning standards and districts were adopted in the City of Portsmouth. That use has coexisted harmoniously with the surrounding residential and other uses since that time. It is part of the fabric and character of the area. It will not devalue surrounding properties to allow the relocation and/or expansion of this use on the Property in a manner that does not alter the character of the surrounding area or otherwise intrude upon the light, air, and space of abutting properties. The bulk of the proposed building will be a considerable distance from the homes on surrounding properties (over 100') and will be buffered and screened by trees and other vegetation. A conscious effort was made, based on input received from abutting property owners, to design, locate, orient and buffer the proposed building, parking and other improvements to have minimal impact upon their properties.

Literal enforcement of the provisions of the Ordinance would result in unnecessary hardship.

The Property has special conditions that distinguish it from surrounding properties. First and foremost, the existing non-conforming use of the Property as a *residential care facility* has existed on the Property since 1917. The use predates the Portsmouth Zoning Ordinance and the development of several abutting and surrounding properties. The Property is one of the largest parcels of land in Portsmouth, but much of it remains undeveloped and undisturbed due to the fact that wetlands and the 100' wetland buffer encumber a significant portion of the land, rendering much of it unbuildable. The only remaining developable area of the Property is the area where the new building is proposed. The Property is also uniquely situated, being abutted by three (3) different zoning districts and a mixture of residential, commercial, municipal uses. There is not one particular use that defines the surrounding area. As a result of these special conditions, there is no fair and substantial relationship between the general purposes of the Ordinance provisions and their strict application to the Property.

The proposed expansion of use is also reasonable for all the reasons outlined above. It is a reasonable relocation and expansion of a lawfully existing non-conforming use of the Property that preserves the character of the area and does not unreasonably intrude upon surrounding properties.

CONCLUSION

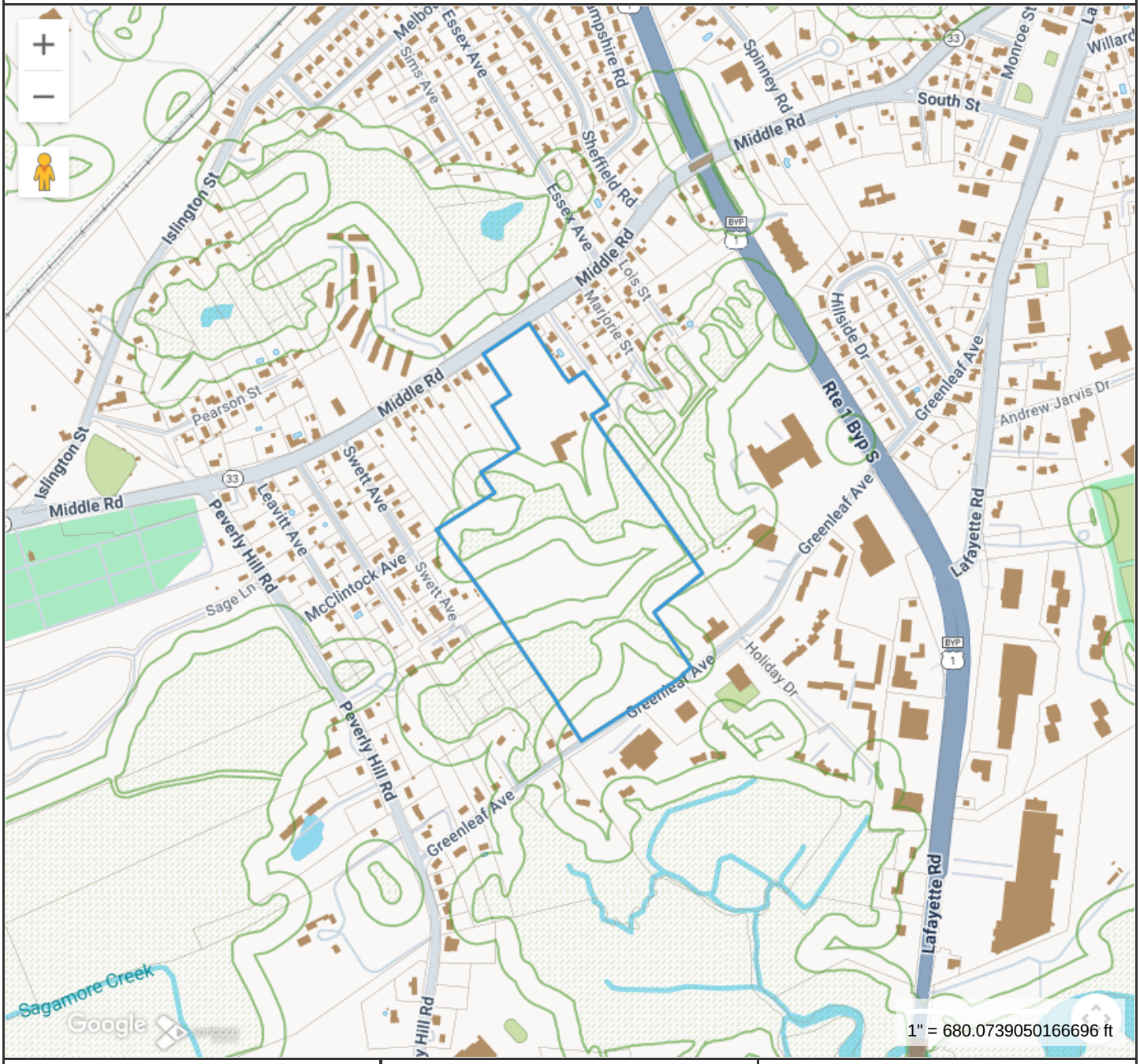
In conclusion, the Chase Home believes that it has met the criteria for granting the variances being requested. It thanks the Board for its time and careful consideration and review of its application.

Respectfully submitted,
The Chase Home for Children of Portsmouth, N.H.



Derek R. Durbin, Esq.
144 Washington Street
Portsmouth, NH 03801
derek@durbinlawoffices.com

EXHIBIT A



Property Information

Property ID	0232-0045-0000
Location	698 MIDDLE RD
Owner	CHASE HOME FOR CHILDREN

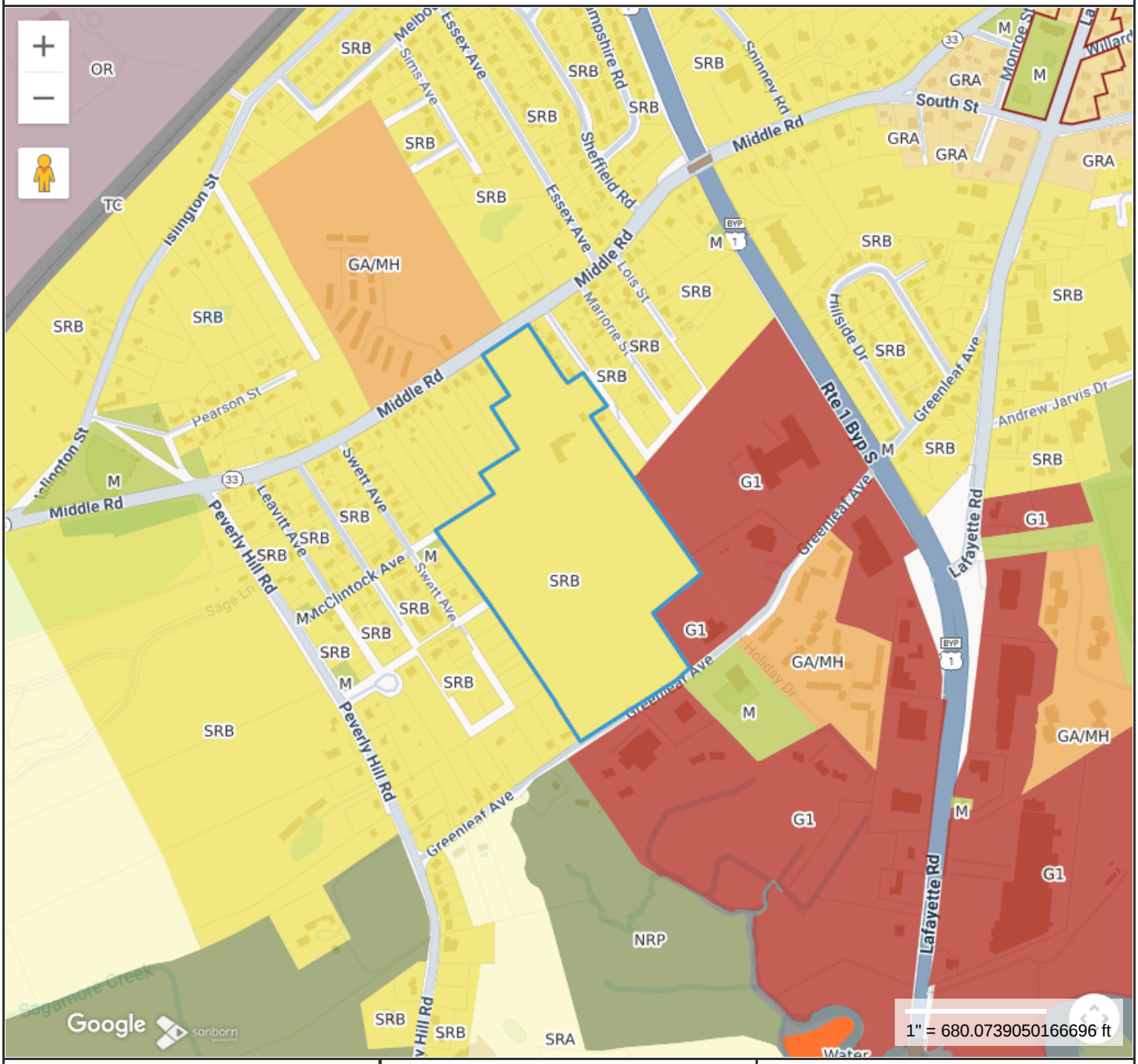
MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 10/23/2025

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

EXHIBIT B



Property Information

Property ID	0232-0045-0000
Location	698 MIDDLE RD
Owner	CHASE HOME FOR CHILDREN

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 10/23/2025

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

232/48 N/F
RANDY K. & MARTA A. TYLER
740 MIDDLE RD
PORTSMOUTH, NH 03801
3312/1533

232/49 N/F
RACHEL PRICE HARTMANN & TATE C. HARTMANN
746 MIDDLE RD
PORTSMOUTH, NH 03801
6535/337

232/50 N/F
BLAUDSCHUN CHRISTOPHER
411 OCEAN RD
PORTSMOUTH, NH 03801
5582/2251

232/51 N/F
MILLER JESSICA PAUL BRIAN
782 MIDDLE RD
PORTSMOUTH, NH 03801
5718/2309

232/52 N/F
DOUGLASS EVAN A
1 LEXINGTON AVE
EXETER, NH 03833
5830/1171

232/53 N/F
MICHAEL CHRISTIAN & BRANDY ROTH KEEVAN
802 MIDDLE RD
PORTSMOUTH, NH 03801
6349/970

232/54 N/F
PATRICK O. COLLINS & SAMANTHA WRIGHT
820 MIDDLE RD
PORTSMOUTH, NH 03801
5537/2346

232/61 N/F
DUDDY FAMILY REVOC TRUST
RICHARD B DUDDY SR / SUE ELLEN TRUSTEES
56 SWETT AVE
PORTSMOUTH, NH 03801
3473/0359

243/13 N/F
CITY OF PORTSMOUTH DPW
PO BOX 628
PORTSMOUTH, NH 03802
2561/1177

243/14 N/F
HARRY A. & ALLISON D. CUMMINGS
120 SWETT AVE
PORTSMOUTH, NH 03801
3599/1193

243/15 N/F
TIMOTHY D. & SAMANTHA HARRINGTON
86 RUSSELL ST
CHARLESTOWN, MA 02129
6268/2717

243/16 N/F
CITY OF PORTSMOUTH
1 JUNKINS AVE
PORTSMOUTH, NH 03801
5367/2177

243/17 N/F
CITY OF PORTSMOUTH
1 JUNKINS AVE
PORTSMOUTH, NH 03801
5367/2176

243/18 N/F
MYRIAD MANAGEMENT GROUP INC
15 BANFIELD RD
PORTSMOUTH, NH 038016
6290/2793

243/19 N/F
CITY OF PORTSMOUTH
1 JUNKINS AVE
PORTSMOUTH, NH 03801
5367/2174

243/20 N/F
DOUGLAS D. MOORE
PO BOX 239
NORTH HAMPTON, NH 03862
5621/2501

243/21 N/F
MYRIAD MANAGEMENT GROUP INC
15 BANFIELD RD
PORTSMOUTH, NH 03801
6290/2793

243/65 N/F
JEAN KENICK
350 GREENLEAF AVE
PORTSMOUTH, NH 03801
2318/1520

243/6 N/F
101 SPRUCEWOOD LLC
1 GREENLEAF WOODS DR S-101
PORTSMOUTH, NH 03801
4720/1508

232/36 N/F
JAMES SIMONE & SHEILA MURRAY
6 SYLVESTER ST
PORTSMOUTH, NH 03801
6540/2151

232/37 N/F
ALISON DECOTIS & TRAVIS J. MUNSEY
49 MARJORIE ST
PORTSMOUTH, NH 03801
5475/2954

WETLAND NOTES:

1) FRESH WATER WETLAND LINE DELINEATED BY STEVEN D. RIKER, CWS ON 10/31/2022 IN ACCORDANCE WITH THE FOLLOWING STANDARDS:
- A) U.S. ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL. TECHNICAL REPORT Y-87-1 (JAN. 1987). AND REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTHCENTRAL AND NORTHEAST REGION, VERSION 2.0, JANUARY 2012.
- B) FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 8.2, USDA–NRCS, 2018 AND (FOR DISTURBED SITES) FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, VERSION 4. NEIWPCC WETLANDS WORK GROUP (2019).
- C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS: NORTHEAST (REGION 1). USFWS (MAY 1988).
- D) CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES. USFW MANUAL FWS/OBS-79/31 (1997).
- E) ''IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE'' (1997). NEW HAMPSHIRE FISH AND GAME DEPARTMENT.

2) WETLAND LINE WAS FIELD LOCATED BY AMBIT ENGINEERING, INC.

NADB3(2011) NORTH — GRID NHSPC

SYLVESTER STREET
MIDDLE ROAD
GREENLEAF AVENUE
1-1/2" IRON PIPE FOUND, DOWN 5"
DRILL HOLE FOUND IN ROCK, FLUSH
5/8" IRON ROD FOUND, UP 6"
GARAGE
BITUMINOUS DRIVEWAY
METAL FIRE ESCAPE
#698
2½ STORY BRICK
232/45
BUILDING SETBACK (TYP.)
CITY OF PORTSMOUTH 100' WETLAND BUFFER SETBACK LINE (TYP.)
IRON ROD W/ "VERRA" CAP FOUND, UP 1"
1" IRON PIPE FOUND, UP 6"
DRILL HOLE (TYP.)
3/4" IRON ROD FOUND, UP 1'
DRILL HOLE
6" X 6" NHHB BOUND FOUND, UP 1"
6" X 6" NHHB BOUND FOUND, UP 18"
6" X 6" NHHB BOUND FOUND, UP 4"
6" X 6" GRANITE BOUND W/ DRILL HOLE FOUND, UP 14"

232/43 N/F
TAYLOR P. ANDREWS
1 SYLVESTER ST
PORTSMOUTH, NH 03801
6434/43

232/44 N/F
JOHANNA ROSE HOLECY
636 MIDDLE RD, PORTSMOUTH, NH 03801
6147/2724

232/47 N/F
HEWITT JAMES REVOC TRUST &
HEWITT ELIZABETH REVOC TRUST
726 MIDDLE ROAD
PORTSMOUTH, NH 03801
6087/1424

232/46 N/F
ANDREW M. HARVEY
710 MIDDLE ROAD
PORTSMOUTH, NH 03801
6065/767

232/122 N/F
JENSEN LESLIE ESTES JACOB
639 MIDDLE RD
PORTSMOUTH, NH 03801
6098/2914

243/67 N/F
150 GREENLEAF AVENUE REALTY TRUST
JAMES G. BOYLE TRUSTEE
150 GREENLEAF AVE, PORTSMOUTH, NH 03801
4215/227

232/39 232/41 N/F
REICHL FAMILY REVOCABLE TRUST
MATHEW A & BETH A REICHL TRUSTEE
15 MARJORIE ST, PORTSMOUTH, NH 03801
6415/1661

232/121 N/F
RIVERBROOK MASTERCARD
639 MIDDLE ROAD
PORTSMOUTH, NH 03801
3526/1009

232/43-1 N/F
RICHARD E. & PATRICIA SCIAUDONE
3 SYLVESTER ST
PORTSMOUTH, NH 03801
5983/61

243/5 N/F
PRUNA HOLDINGS LLC
21 LAVENGER LN
NEW CASTLE, NH 03854
6516/816

243/4 N/F
CITY OF PORTSMOUTH
1 JUNKINS AVE
PORTSMOUTH, NH 03801
5367/2174

243/66 N/F
PHA HOUSING DEVELOPMENT LTD
245 MIDDLE ST
PORTSMOUTH, NH 03801
6545/172

243/67-1 N/F
MEDIA ONE OF NE INC C/O
COMCAST CORPORATION
ONE COMCAST CENTER
PHILADELPHIA, PA 19103
2564/206

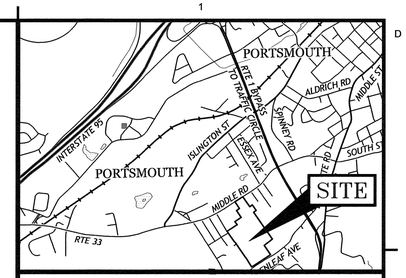
GRAPHIC SCALE
80 60 40 20 0 100 200 300 FEET
20 10 0 20 40 60 80 100 METERS

''I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000.''

JOHN R. CHAGNON, LLS #738 — DATE 9.22.25

PLAN REFERENCES:

1) A PLAN OF LAND IN PORTSMOUTH, N.H. FOR THE CHASE HOME FOR CHILDREN PREPARED BY JOHN W. DURGIN ASSOCIATES, INC. DATED SEPTEMBER 10, 1980. NOT RECORDED.



LOCATION MAP 1" = 2000'

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 232 AS LOTS 45.

2) OWNER OF RECORD:
CHASE HOME FOR CHILDREN C/O WOODMAN
82 COURT STREET
PORTSMOUTH, NH 03801
3071/818

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0270F. EFFECTIVE JANUARY 29, 2021.

4) EXISTING LOT AREA:
1,115,649 S.F.
25.5589 ACRES

5) PARCEL IS LOCATED IN SINGLE RESIDENCE B (SRB) DISTRICT.

6) DIMENSIONAL REQUIREMENTS:

MIN. LOT AREA:	15,000 S.F.
FRONTAGE:	100 FEET
SETBACKS:	
FRONT	30 FEET
SIDE	10 FEET
REAR	30 FEET
MAXIMUM STRUCTURE HEIGHT:	35 FEET
MAXIMUM BUILDING COVERAGE:	20%
MINIMUM OPEN SPACE:	40%

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 232 LOT 45 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88 (MEAN SEA LEVEL). BASIS OF VERTICAL DATUM AND TOPOGRAPHY FROM LIDAR DATABASE.

9) SITE BOUNDARY BASED ON REFERENCE PLAN #1.

No.	DATE	DESCRIPTION	BY	CHK.
1	2025.09.22	UPDATED TOPOGRAPHY	SJR	JRC
0	2025.04.25	ISSUED FOR COMMENT	EDS	JRC

DRAWING ISSUE STATUS
PERMIT PLAN

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
200 Griffin Rd. Unit 14
Portsmouth, New Hampshire 03801
603.430.9282
WWW.HALEYWARD.COM

PROJECT
CHASE HOME
698 MIDDLE ROAD PORTSMOUTH, NH

TITLE
EXISTING CONDITIONS PLAN

STATE OF NEW HAMPSHIRE — No. 738 — JOHN R. CHAGNON — LAND SURVEYOR — SIGNATURE

DATE	2025.4.25
SCALE	1" = 80'
DRAWN BY	EDS
DESIGNED BY	EDS
CHECKED BY	JRC
PROJECT No.	5010179.3519
FIELD BOOK & PAGE	FB 224 PG 73
SHEET No.	SHEET 1
DWG No.	C1

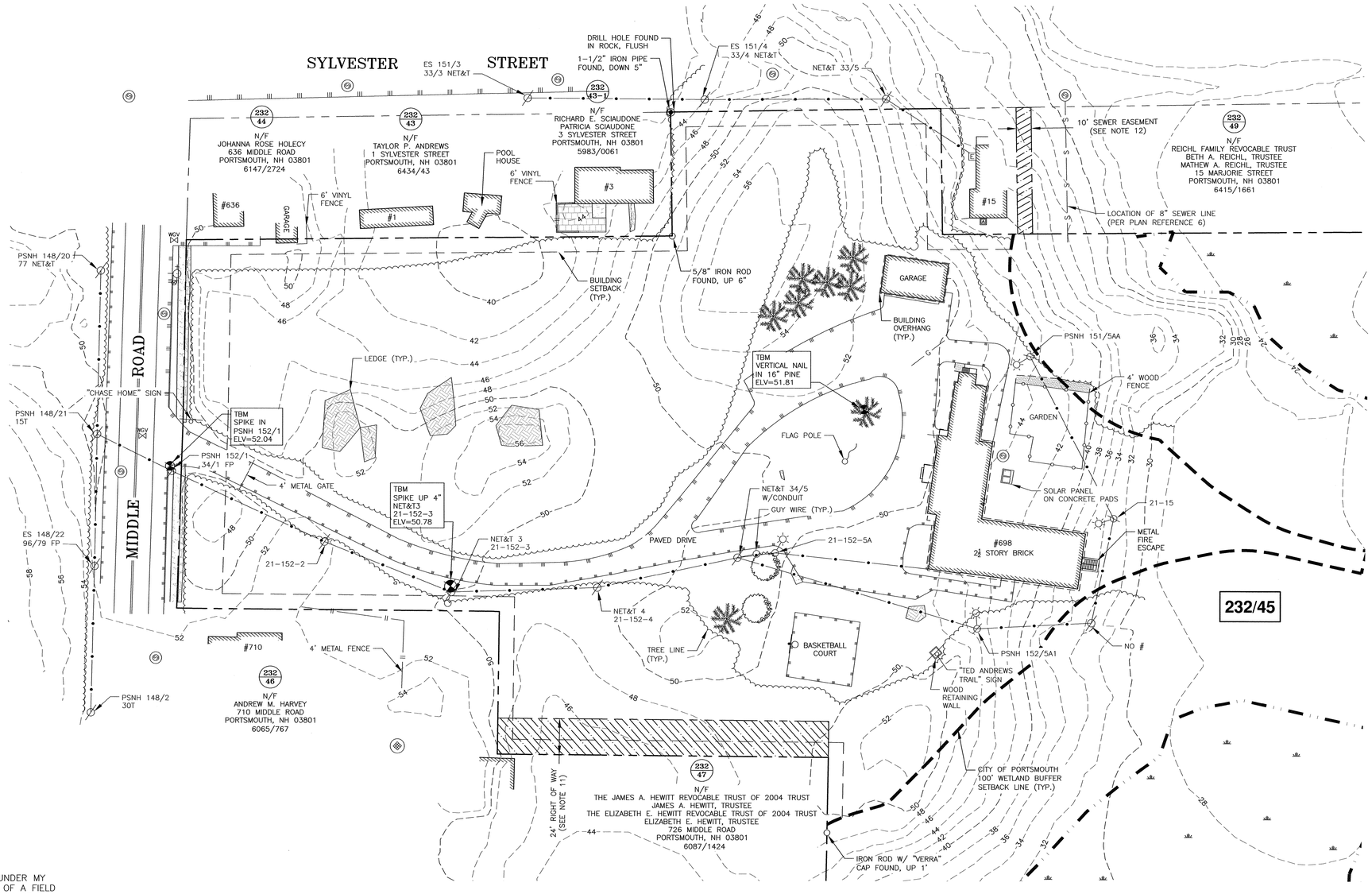
P:\5010179-Rod_Construction\3519-Middle Road (RCI)\19-2022 Survey\Plans & Sheets\Sht3519 Existing Conditions 2025.dwg, 9/22/2025 9:22:33 AM

LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
RR SPK	RAILROAD SPIKE
11/21	MAP 11/LOT 21
	IRON ROD FOUND
	IRON PIPE FOUND
	IRON ROD SET
	DRILL HOLE FOUND
	DRILL HOLE SET
	BOUND FOUND
S	SEWER LINE
G	GAS LINE
D	STORM DRAIN
W	WATER LINE
UE	UNDERGROUND ELECTRIC
	OVERHEAD ELECTRIC/WIRES
100	CONTOUR
97x3	SPOT ELEVATION
	EDGE OF PAVEMENT (EP)
	UTILITY POLE
	UTILITY POLE W/ LIGHT
WSO	WATER SHUT OFF/CURB STOP
GSO	GAS SHUT OFF
GV	GATE VALVE
HYD	HYDRANT
G W E	METER (GAS, WATER, ELECTRIC)
	CATCH BASIN
T	TELEPHONE MANHOLE
S	SEWER MANHOLE
D	DRAIN MANHOLE
EL.	ELEVATION
EP	EDGE OF PAVEMENT
FF	FINISHED FLOOR
INV	INVERT
TBM	TEMPORARY BENCH MARK
TYP	TYPICAL
VGC/SGC	VERTICAL/SLOPED GRANITE CURB

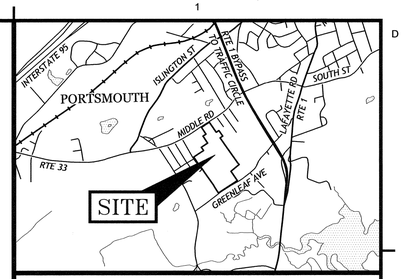
PLAN REFERENCES:

1) A PLAN OF LAND IN PORTSMOUTH, N.H. FOR THE CHASE HOME FOR CHILDREN, PREPARED BY: JOHN W. DURGIN ASSOCIATES, INC. DATED: SEPTEMBER 10, 1980, SCALE: 1 INCH=60 FEET, NOT RECORDED.
2) PLAN OF PROSPECT PARK, PORTSMOUTH, NH, OWNED BY: LEAVITT, WOODWORTH & SWEAT, PREPARED BY: JOHN N. MCCLINTLOCK, DATED: APRIL 17, 1902, RCRD #00113.
3) SUBDIVISION OF LAND OF B&I ASSOCIATES ON PEVERLY HILL ROAD, PORTSMOUTH, NH, PREPARED BY: FRANCES J. BARRETT, DATED: JANUARY 1978, SCALE: 1"=40', RCRD D–7742.
4) PROSPECT PARK ANNEX, PORTSMOUTH, NH, OWNED BY: LEAVITT WOODWORTH AND SWEAT, PREPARED BY: F.C. HOYT, DATED: JUNE 7, 1902, SCALE: 30 FT = 1 INCH, RCRD #00110.
5) PROSPECT PARK ANNEX NO. 2, PORTSMOUTH, NH, OWNED BY: LEAVITT WOODWORTH AND SWEAT, PREPARED BY: F.C. HOYT, DATED: JUNE 11, 1902, SCALE: 30 FT = 1 INCH, RCRD #00109.
6) PLAN OF LAND, PORTSMOUTH, N.H. FOR MAX MILTON, PREPARED BY: JOHN W. DURGIN CIVIL ENGINEERS, DATED: JULY 1974, SCALE: 1 IN = 30 FT, NOT RECORDED.
7) PROSPECT PARK ANNEX NO. 3, PORTSMOUTH, NH, BELONGING TO LEAVITT, WOODWORTH AND SWEAT, PREPARED BY: JOHN N. MCCLINTLOCK, DATED: APRIL 30, 1903, SCALE: 1" = 40', RCRD #00225.
8) PLAN OF LAND PREPARED FOR: ARNE, LLC (TAX MAP 232 LOT 43–1) 3 SYLVESTER STREET, PORTSMOUTH, N.H., PREPARED BY: BOUDREAU LAND SURVEYING, LLC, DATED: FEBRUARY 15, 2019, SCALE: 1" = 20'. RCRD D–41324.
9) SUBDIVISION PLAN LOCATED IN PORTSMOUTH, NH FOR PORTSMOUTH BUSINESS CENTER, PREPARED BY: KIMBALL CHASE COMPANY, INC., DATED: 6/25/85, SCALE: 1" = 50', RCRD D–14106.



GRID NHSPC — NORTH NAD83(2011)

GRAPHIC SCALE
40 30 20 10 0 50 100 150 FEET
10 5 0 10 20 30 40 50 METERS



LOCATION MAP 1" = 2000'

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 232 AS LOT 45.

2) OWNER OF RECORD:
CHASE HOME FOR CHILDREN
82 COURT STREET
PORTSMOUTH, NH 03801
3071/818

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0270F. EFFECTIVE JANUARY 29, 2021.

4) EXISTING LOT AREA: (PER PLAN REFERENCE 1)
1,116,287 S.F.
25.63 ACRES

5) PARCEL IS LOCATED IN SINGLE RESIDENCE B (SRB) DISTRICT.

6) DIMENSIONAL REQUIREMENTS:

MIN. LOT AREA:	15,000 S.F.
FRONTAGE:	100 FEET
SETBACKS:	
FRONT	30 FEET
SIDE	10 FEET
REAR	30 FEET
MAXIMUM STRUCTURE HEIGHT:	35 FEET (SLOPED) 30 FEET (FLAT)
MAXIMUM BUILDING COVERAGE:	20%
MINIMUM OPEN SPACE:	40%

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS OF A PORTION OF ASSESSOR'S MAP 232 LOT 45 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT GNSS RTK MEASUREMENTS.

9) BOUNDARY LINES SHOWN HEREON ARE BASED SOLELY ON PLAN REFERENCE 1.

10) PARCEL IS SUBJECT TO A LICENSE AGREEMENT WITH MAP 232 LOT 44 FOR ENCROACHMENT OF A GARAGE AND DRIVEWAY. SEE RCRD 2385/922.

11) PARCEL IS SUBJECT TO A 24' RIGHT OF WAY IN COMMON. SEE RCRD 868/434 AND 664/132.

12) PARCEL IS BENEFITED BY AN EASEMENT FOR AN 8" SEWER LINE. SEE RCRD 2029/355 AND PLAN REFERENCE 6.

13) TOPOGRAPHY SHOWN HEREON IS COMPILED FROM ON THE GROUND MEASUREMENTS AND LIDAR.

No.	DATE	DESCRIPTION	BY	CHK
0	10/8/25	ISSUED FOR COMMENT	RJB	JRC

DRAWING ISSUE STATUS

SITE SURVEY

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
200 Griffin Rd. Unit 14
Portsmouth, New Hampshire 03801
603.430.9282
WWW.HALEYWARD.COM

PROJECT

CHASE HOME
698 MIDDLE ROAD PORTSMOUTH, NH

TITLE

EXISTING CONDITIONS PLAN

DATE: OCTOBER 2025	SCALE: 1" = 40'
DRAWN BY: RJB	DESIGNED BY:
CHECKED BY: JRC	
PROJECT No.: 5010179.3519	FIELD BOOK & PAGE: FB 506 PG 1
SHEET No.: SHEET 1	DWG No.: C3

STATE OF NEW HAMPSHIRE — No. 738 — LICENSED LAND SURVEYOR — JOHN R. CHAGNON — SIGNATURE

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

10.8.25

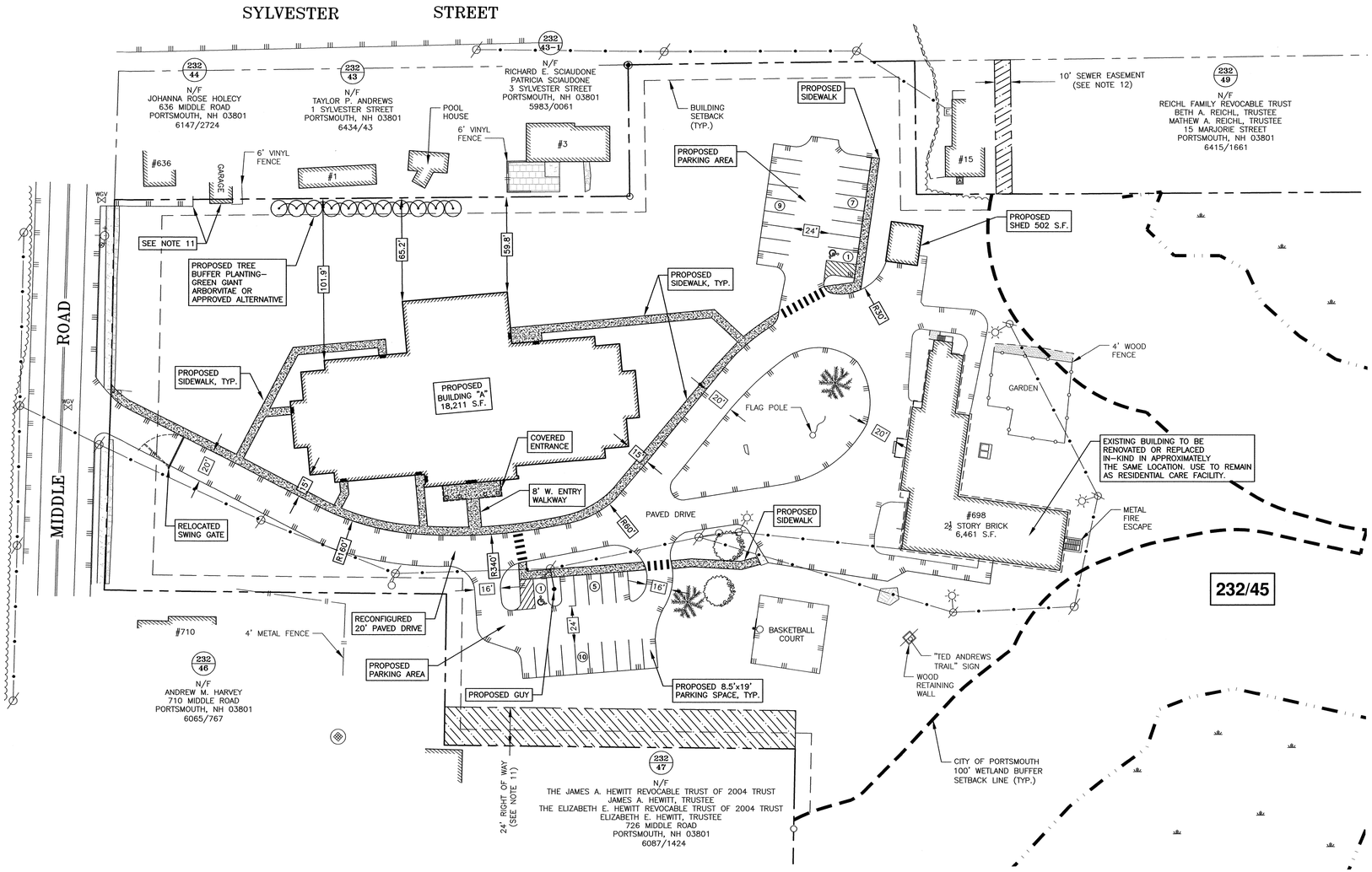
JOHN R. CHAGNON, LLS 738 DATE

P:\projects\5010179.3519\Survey\CAD\5010179.3519 Survey.dwg, 10/8/2025 8:00:00 AM, Jonathan Wentworth, Haley Ward, Inc.

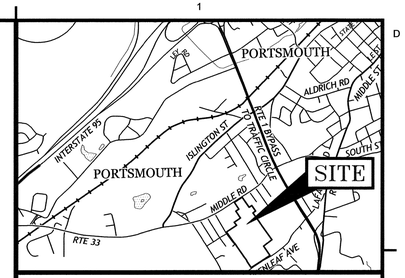
PLAN REFERENCES:

1) A PLAN OF LAND IN PORTSMOUTH, N.H. FOR THE CHASE HOME FOR CHILDREN, PREPARED BY: JOHN W. DURGIN ASSOCIATES, INC. DATED: SEPTEMBER 10, 1980, SCALE: 1 INCH=60 FEET, NOT RECORDED.
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4) PROSPECT PARK ANNEX, PORTSMOUTH, NH, OWNED BY: LEAVITT WOODWORTH AND SWEAT, PREPARED BY: F.C. HOYT, DATED: JUNE 7, 1902, SCALE: 30 FT = 1 INCH, RCRD #00110.
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6) PLAN OF LAND, PORTSMOUTH, N.H. FOR MAX MILTON, PREPARED BY: JOHN W. DURGIN CIVIL ENGINEERS, DATED: JULY 1974, SCALE: 1 IN = 30 FT, NOT RECORDED.
7) PROSPECT PARK ANNEX NO. 3, PORTSMOUTH, NH, BELONGING TO LEAVITT, WOODWORTH AND SWEAT, PREPARED BY: JOHN N. MCCLINTLOCK, DATED: APRIL 30, 1903, SCALE: 1" = 40', RCRD #00225.
8) PLAN OF LAND PREPARED FOR: ARNE, LLC (TAX MAP 232 LOT 43–1) 3 SYLVESTER STREET, PORTSMOUTH, N.H., PREPARED BY: BOUDREAU LAND SURVEYING, LLC, DATED: FEBRUARY 15, 2019, SCALE: 1" = 20'. RCRD D–41324.
9) SUBDIVISION PLAN LOCATED IN PORTSMOUTH, NH FOR PORTSMOUTH BUSINESS CENTER, PREPARED BY: KIMBALL CHASE COMPANY, INC., DATED: 6/25/85, SCALE: 1" = 50', RCRD D–14106.

GRID NORTH
NHSPC NAD83(2011)



GRAPHIC SCALE
40 30 20 10 0 50 100 150 FEET
10 5 0 10 20 30 40 50 METERS



LOCATION MAP 1" = 2000'

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 232 AS LOTS 45.

2) OWNER OF RECORD:
CHASE HOME FOR CHILDREN C/O WOODMAN
82 COURT STREET
PORTSMOUTH, NH 03801
3071/818

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0270F. EFFECTIVE JANUARY 29, 2021.

4) EXISTING LOT AREA:
1,115,649 S.F.
25.5589 ACRES

5) PARCEL IS LOCATED IN SINGLE RESIDENCE B (SRB) DISTRICT.

6) DIMENSIONAL REQUIREMENTS:

MIN. LOT AREA:		15,000 S.F.
FRONTAGE:	100 FEET	
SETBACKS:		
	FRONT	30 FEET
	SIDE	10 FEET
	REAR	30 FEET
MAXIMUM STRUCTURE HEIGHT:		35 FEET
MAXIMUM BUILDING COVERAGE:		20%
MINIMUM OPEN SPACE:		40%

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED DEVELOPMENT ON ASSESSOR'S MAP 232 LOT 45 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88 (MEAN SEA LEVEL). BASIS OF VERTICAL DATUM IS LIDAR.

9) SITE BOUNDARY BASED ON REFERENCE PLAN #1.

10) PARKING CALCULATION; RESIDENTIAL CARE FACILITY
PROPOSED BUILDING A: 20 BEDS
EXISTING #698: 22 BEDS
TOTAL: 42 BEDS
42 BEDS X .05 SPACES PER BED = 21 SPACES REQUIRED.
33 SPACES PROVIDED (ADDITIONAL SPACES TO ACCOMMODATE STAFF AND GUESTS).

11) PARCEL IS SUBJECT TO A LICENSE AGREEMENT WITH MAP 232 LOT 44 FOR ENCROACHMENT OF A GARAGE AND DRIVEWAY. SEE RCRD 2385/922.

No.	DATE	DESCRIPTION	BY	CHK
0	2025.10.23	ISSUED FOR COMMENT	SJR	JRC

DRAWING ISSUE STATUS
PERMIT PLAN

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
WWW.HALEYWARD.COM
200 Griffin Rd. Unit 14
Portsmouth, New Hampshire 03801
603.430.9282

PROJECT
CHASE HOME
698 MIDDLE ROAD PORTSMOUTH, NH

TITLE
SITE PLAN

STATE OF NEW HAMPSHIRE – JOHN R. CHAGNON No. 7931 LICENSED PROFESSIONAL ENGINEER

DATE	SCALE
AUGUST 2025	1" = 40'

DRAWN BY	DESIGNED BY	CHECKED BY
SJR	SJR	JRC

PROJECT No.	FIELD BOOK & PAGE
5010179.3519	FB 224 PG 73

SHEET No. **SHEET 3** DWG No. 0

P:\5010179.3519_Construction\3519 Middle Road (RC)\3519.3202 Survey\Plans & Specs\Dwg\3519.3519 Site 2025.dwg, 11/5/2025 2:49:53 PM



FIRST FLOOR PLAN
1/8" = 1'-0" 1

ADMIN/HOME BASE/DIVERSION
ADMIN/HOME BASE/DIVERSION-OPEN OFFICE
BASE BUILDING
CIRCULATION/COMMON
INDEPENDENT LIVING
RESIDENTIAL
VERTICAL CIRCULATION

AREA SCHEDULE	
NAME	AREA
FIRST FLOOR	
ADMIN/HOME BASE/DIVERSION	
OFFICE	133 SF
OFFICE	154 SF
OFFICE	133 SF
OFFICE	133 SF
DIVERSION C.M	145 SF
DIVERSION P.C	145 SF
IT/SERVER	117 SF
SR. STAFF OFFICE	195 SF
SHARED OFFICE	274 SF
FAMILY ROOM	598 SF
CONFERENCE	367 SF
STORAGE	84 SF
BATHROOM	60 SF
CLOSET	22 SF
TRAINING	304 SF
BATHROOM	84 SF
BATHROOM	64 SF
JAN	84 SF
WAITING ROOM	252 SF
ARCHIVING	231 SF
SR. STAFF OFFICE	197 SF
OFFICE	133 SF
CONFERENCE	408 SF
STORAGE	46 SF
OFFICE	133 SF
MAIL/COPY	129 SF
OFFICE	154 SF
OFFICE	133 SF
OFFICE	154 SF
OFFICE	133 SF
BREAK ROOM	286 SF
OFFICE	140 SF
STORAGE	47 SF
STORAGE	45 SF
ADMIN/HOME BASE/DIVERSION-OPEN OFFICE	
OPEN OFFICE	795 SF
OPEN OFFICE	1465 SF
BASE BUILDING	
ELECTRICAL	238 SF
WATER ROOM	127 SF
CIRCULATION/COMMON	
LOBBY	1105 SF
VESTIBULE	146 SF
HALLWAY	695 SF
CORRIDOR	256 SF
CORRIDPR	136 SF
HALLWAY	107 SF
INDEPENDENT LIVING	
STUDIO 2	458 SF
2 BED/2 BATH UNIT	694 SF
STUDIO 1	387 SF
LAUNDRY	109 SF
VESTIBULE	63 SF
2 BED/2 BATH UNIT	765 SF
HALLWAY	316 SF
RESIDENTIAL	
LIVING/KITCHEN	1504 SF
GYM	582 SF
BATHROOM	64 SF
BATHROOM	64 SF
VERTICAL CIRCULATION	
ELV-2	59 SF
STR-3	127 SF
STAIR 1	222 SF
STAIR 2	222 SF
EMR	60 SF
	16479 SF

GROSS BUILDING AREA	
LEVEL	AREA
FIRST FLOOR	17708 SF
SECOND FLOOR	13825 SF
	31534 SF

USE GROUP	
USE GROUP	AREA
B	10988 SF
I-1	20545 SF
	31534 SF

THE CHASE HOME
Supporting children, youth, & families since 1877

THE CHASE HOME - CONCEPT / FIRST FLOOR PLAN / 11.04.2025

MAUGEL DESTEFANO ARCHITECTS



SECOND FLOOR(1) 2
1/8" = 1'-0"

CIRCULATION/COMMON
FEMALE DORM AREA
FEMALE DORM ROOMS
MALE DORM AREA
MALE DORM ROOMS
STAFF AREA
STAFF CIRCULATION
VERTICAL CIRCULATION

AREA SCHEDULE	
NAME	AREA
SECOND FLOOR	
CIRCULATION/COMMON	
LOBBY	833 SF
FEMALE DORM AREA	
LIVING	2158 SF
FEMALE DORM ROOMS	
BED	194 SF
BED	180 SF
BED	180 SF
BED	180 SF
BED	180 SF
BED	180 SF
BED	180 SF
BED	180 SF
LAUNDRY	182 SF
TELE-HEALTH	131 SF
BR	131 SF
BR	131 SF
BR	131 SF
BR	131 SF
MECH	131 SF
STORAGE	78 SF
MALE DORM AREA	
LIVING	2158 SF
MALE DORM ROOMS	
BED	195 SF
BED	180 SF
BED	180 SF
BED	180 SF
BED	180 SF
BED	180 SF
BED	180 SF
LAUNDRY	182 SF
TELE-HEALTH	131 SF
BR	131 SF
BR	131 SF
BR	131 SF
BR	131 SF
MECH	131 SF
STORAGE	78 SF
STAFF AREA	
MEETING	199 SF
BREAK ROOM	199 SF
BATHROOM	64 SF
BATHROOM	64 SF
OFFICE	137 SF
OFFICE	137 SF
OFFICE	137 SF
OFFICE	137 SF
OFFICE	182 SF
OFFICE	182 SF
STORAGE	66 SF
STORAGE	66 SF
STAFF CIRCULATION	
HALLWAY	682 SF
VERTICAL CIRCULATION	
STAIR 1	222 SF
STAIR 2	222 SF
ELV-2	59 SF
STR-3	212 SF
	12757 SF

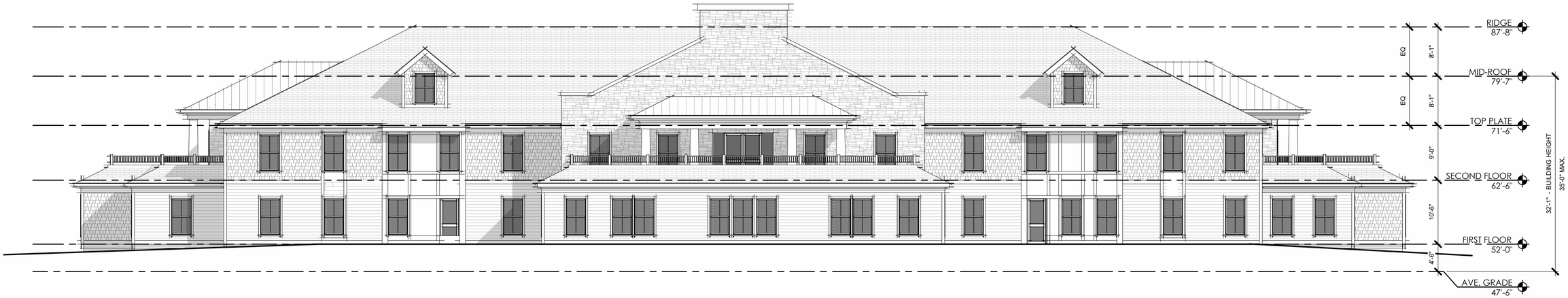
GROSS BUILDING AREA	
LEVEL	AREA
FIRST FLOOR	17708 SF
SECOND FLOOR	13825 SF
	31534 SF

USE GROUP	
USE GROUP	AREA
B	10988 SF
I-1	20545 SF
	31534 SF

THE CHASE HOME
Supporting children, youth, & families since 1877

THE CHASE HOME - CONCEPT / SECOND FLOOR PLAN / 11.04.2025

MAUGEL DESTEFANO ARCHITECTS



ELEVATION B 2
1/8" = 1'-0"



ELEVATION A 1
1/8" = 1'-0"

THE CHASE HOME
Supporting children, youth, & families since 1877

THE CHASE HOME - CONCEPT / ELEVATIONS / 11.04.2025

MAUGEL DESTEFANO ARCHITECTS



ELEVATION D 2
1/8" = 1'-0"



ELEVATION C 1
1/8" = 1'-0"



THE CHASE HOME
Supporting children, youth, & families since 1877

THE CHASE HOME - CONCEPT / ISO PERSPECTIVE / 11.04.2025

MAUGEL DESTEFANO ARCHITECTS



THE CHASE HOME
Supporting children, youth, & families since 1877

THE CHASE HOME - CONCEPT / ISO PERSPECTIVE / 11.04.2025

MAUGEL DESTEFANO
ARCHITECTS

Our front door entrance gives foresight into the 120+ years of wear and tear to the building



Exposed piping that has burst multiple times over the past couple years, this room has flooded and requires us to fix the pipes each time and replace furniture

This is our family room, Seacoast Diversion office Hallway and connecter from those spaces to the laundry room.







Second floor independent living kitchenette is too small to be dignified and functional. we would want to expand the independent living spaces to be studio apartments.

Currently the bathrooms on the independent living floor are extremely old and outdated.

Additionally in storage spaces on this floor, there is significant water damage to the ceilings.









Our first floor kitchen is extremely outdated with a lot of utilized appliances and features like this walk in freezer and sink bays.

We currently only have a skin and sanitizer, not a working dishwasher.

We would like to be able to expand the kitchen to be a learning kitchen so that youth are able to work with our kitchen manager, staff and community culinary leaders to learn kitchen basics, healthy nutrition, and explore culinary arts.



A lot of the walls throughout our building continue to decay and get patched up and painted over. This is an example of where in our building we have not made those cosmetic changes.



Ceilings throught the building have water damage and exposed piping.

We have also had the building treated in the residential areas for asbestos but still have it in other areas of the building.





The Chase Home spends tens of thousands of dollars annually to fix our old boiler that heats the entire building. Nearly every year it gives out and the youth have to shower at the YMCA because we do not have hot water.

The heating system is so outdated, it only kicks on if it reaches 40 degrees and on autumn days where it is 40 at 5am and 75 at 1pm, we can not control the heat or turn it down.



The top and middle floors are there the youth’s dorms are. We would like to be able to improve safety by rebuilding to have them on the second floor on level ground.

Bats, snakes and other pests have been able to get in through our basement foundation and cracks near the back door under the old fire escape.



III. NEW BUSINESS

F. The request of **Robert M Snover Revocable Trust (Owners),** for appeal of the administrative decision to require a variance for Section 10.1530 pertaining to the lot area of the property located at **58 Humphrey's Court.** Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-168)

Planning Department Comments

The applicant is appealing the determination of the Planning and Sustainability Director that a variance for lot area is required to rightfully subdivide the existing parcel. Relevant definitions found in Article 15 of the Zoning Ordinance can be found below.

Lot area

The total horizontal area included within the property lines.

Lot line

A property line bounding a lot.

Lot line, front

A boundary of lot that separates the lot from a public place. A corner lot, through lot or a waterfront lot shall have multiple front lot lines. In the case of a corner lot, through lot or a waterfront lot, the principal front yard shall be the line bordering a public place on which the lot has its address as defined by the City.

DURBIN LAW

Derek R. Durbin, Esq.
603.287.4764
derek@durbinlawoffices.com

BY: VIEWPOINT & HAND DELIVERY

November 18, 2025

City of Portsmouth
Attn: Stefanie Casella, Planner
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

RE: Appeal of Administrative Decision (RSA 676:5)
Robert M. Snover, Darcy Davidson, Trustees of the Robert M. Snover Revocable Trust
58 Humphry's Court, Tax Map 101, Lot 47

Dear Stefanie,

Please find an Appeal of an Administrative Decision filed on behalf of Robert Snover and Darcy Davidson pursuant to RSA 676:5, relative to property located at 58 Humphry's Court.

In addition to the above referenced Appeal, the Applicants are filing a Variance Application under separate cover.

A copy of the above application materials is being delivered to the Planning Department. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,

Derek R. Durbin, Esq.

CITY OF PORTSMOUTH
APPEAL of ADMINISTRATIVE DECISION

Robert M. Snover, Darcy Davidson
Trustees of the Robert M. Snover Revocable Trust
(Owners/Appellants)

58 Humphry's Court,
Portsmouth, NH 03801
Tax Map 101, Lot 47

Introduction

Robert M. Snover and Darcy Davidson, Trustees of the Robert M. Snover Revocable Trust, owners of the property at 58 Humphry's Court, Portsmouth, NH 03801 (the "Property"), hereby appeal the administrative determination made by Peter Britz, Planning Director, dated October 21, 2025, pertaining to the "lot area" of the Property (the "Administrative Determination"). For reference, the administrative determination letter is attached hereto as **Exhibit A**. The foregoing appeal is filed pursuant to RSA 676:5 and Section 10.629.10 of the Portsmouth Zoning Ordinance, as amended through May 5, 2025 (the "Ordinance"). The Appellants do not challenge the Planning Director's determination of the yard requirements, as set forth in this letter.

Arguments

Section 10.1530 of the Ordinance states that a "lot" is a "single parcel of land in the same ownership throughout **as shown or defined on a recorded instrument or defined by metes and bounds** and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition of the issuance of a building permit for building on such land." "Lot area" is defined as "[t]he total horizontal area included within the property lines. A "lot line" is "[a] property line **bounding** a lot." (**emphasis added**). Simply put, *lot area* is determined by the deeded boundaries of a *lot* or a recorded survey. The Appellants deed contains a metes and bounds description of the Property which adds up to 10,005 square feet of total land area. **Exhibit B**. A recent boundary survey of the Property conducted by Haley Ward confirms the metes and bounds description contained in the Appellants' deed. It is also consistent with the dimensions of the Property as shown on a recorded plan for Humphry's Court from 1900. **Exhibit C**. In the present case, the Appellants recorded deed and boundary survey describes and shows the Property as a 10,0005 square foot lot.

In his Administrative Determination, the Planning Director takes the position that a 163 square foot area in the northwest corner of the Property is "not part of the useable lot" and "cannot be counted as lot area because it is in the **street** outside of the **front lot line**" (**emphasis added)**. The Appellants respectfully disagree with the City's position, which ignores the plain language of the *lot area* definition.

Whether the 163 square foot area is "part of the useable lot" or is developable land is irrelevant to the consideration of whether it is part of the Appellants' *lot* and therefore, part of the total *lot area* (land area) of the Property. There are properties throughout the City that have areas within their boundaries and front lot line that are theoretically unusable and undevelopable because they are encumbered by a sidewalk, multi-use path, drainage easement, vehicular turn-around easement or access-related easement that benefits the City and the public. The City has nonetheless allowed Applicants to count these areas as part of the total *lot area* of the properties they are a part of. Ironically, a portion of the Appellants' driveway is within the 163 square foot area. Therefore, the reality is that it is still part of their useable lot.

The Planning Director relies upon the definition of "lot line, front" in Section 10.1530 of the Ordinance in rendering his determination that the 163 square foot area cannot be counted towards lot area. A "front lot line" is defined as follows: [a] boundary of lot that separates the lot from a public place." A "public place is defined as a "streetway, park, pedestrian alleyway or community space that provides public access." The term "streetway" is not defined by the Ordinance but is used interchangeably with the term "street". The term "street" is defined as a "thoroughfare or roadway which is either: (a) formally accepted by the City; (b) shown on a subdivision plan approved by the Planning Board and constructed to City subdivision specifications or for which surety has been posted to guarantee construction of all improvements required by the Planning Board."

There is no evidence that the 163 square foot area was ever formally dedicated or accepted by the City, a burden which is upon the City to prove, not the landowner. A plan prepared by James Verra in 1998 demonstrates an intent by prior owners to retain ownership and rights over the 163 square foot area. **Exhibit D**. It is therefore not part of the *public place* associated with Humphry's Court regardless of whether the public is permitted to use it. To the extent that the City can prove that the 163 square foot area was formally accepted and constitutes a *public place*, it appears that there is a direct conflict between the Ordinance definitions of *front lot line, lot line* and *lot,* which dictate how the term *lot area* is to be interpreted. Any such conflict in the Ordinance should be interpreted in favor of the Appellants and their deeded property rights.

Conclusion

The *lot area* definition in the Ordinance is unambiguous. In the absence of ambiguity, the City must apply the plain language *lot area* definition, not turn to other sections of the Ordinance for guidance, such as the *front lot line* definition. Moreover, it appears that when the City adopted the *front lot line* definition, it did not contemplate a situation such as the Appellants'. It contemplated situations involving the dedication and acceptance of land to the City for public use, which makes sense.

There is no evidence to suggest that there was a formal dedication and acceptance of the 163 square foot area with the City. The proper venue and forum for the City to revise its *lot area* definition and requirement(s) to exclude certain areas within a landowner's boundaries is through a formal zoning amendment process. Some municipalities have excluded ROW areas and other areas that are used by the public from their *lot area* definitions. Portsmouth has not.

The Appellants have deeded rights to 10,005 square feet of land. The City cannot unilaterally redefine the deeded boundaries of the Appellants' Property. That would be tantamount to inverse condemnation.

The Appellants hereby seek the reversal of the Planning Director's administrative determination dated October 21, 2025, and respectfully request that the Zoning Board of Adjustment find that they have 10,005 square feet of *lot area*.

Respectfully submitted,



Derek R. Durbin, Esq.
144 Washington Street
Portsmouth, NH 03801
derek@udrbinlawoffices.com

EXHIBIT A

CITY OF PORTSMOUTH
Planning and Sustainability Department
1 Junkins Avenue
Portsmouth, New Hampshire
03801
(603) 610-7216

Rober Snover and Darcy Davidson
60 TJ Gamester Avenue
Portsmouth, NH 03801

October 21, 2025

Dear Mr. Snover:

This letter is to serve as a follow up to our meeting on September 23 where we discussed the Planning & Sustainability Department's interpretation of the zoning on your property at 58 Humphrey's Court. You are proposing to subdivide a single property known as Map 101 Lot 47 into two parcels. Staff's interpretation of the zoning for this lot determines that a variance is required to allow the subdivision in order to create two buildable lots.

This parcel's frontage wraps around the 90 degree turn in Humphreys Ct. effectively creating one continuous front yard. At the point of the 90 degree turn the City street overlaps on the parcel creating a curve along the front lot line and an area of City street overlapping with a portion of what your survey has indicated as the lot area. The area of street amounts to 163 square feet, the curved edge of which borders a public place or City street and is not part of the Lot area for this parcel. Simply, this area is not included in the overall lot area because it is not part of the useable lot for this parcel as defined by the zoning ordinance where a front lot line is defined as:

> *Lot Line, front*
> *A boundary of lot that separates the lot from a public place. A corner lot, through lot or a waterfront lot shall have multiple front lot lines. In the case of a corner lot, through lot or a waterfront lot, the principal front yard shall be the line bordering a public place on which the lot has its address as defined by the City*

The dimensions of the entire lot is shown on a Haley Ward Subdivision Plan from 10/3/2025 as being 10,005 square feet with an area of travelled way (effectively City street) being 163 square feet. It is staff's determination that this 163 square foot area cannot be counted as lot area because it is in the street outside of the front lot line. The lot area for Map 101 Lot 47 is determined to be 10,005 square feet minus 163 square feet of public way or 9,842 square feet as shown on the Haley Ward plan. Therefore, there is no way to subdivide this parcel with two conforming lots having a required lot area of 5,000 square feet or greater.

In determining yards on this lot, the front lot line is the area of the public way that has a curve where it comes together off of the two legs of Humphreys Ct. It is from the center of that curve that the rear lot line is determined. In this case, the rear lot line is the area that comes to a point at the opposite side of the lot from the curve. (The area shown on the Haley Ward plan as EC1). Using the Zoning Ordinance interpretation of rear lot lines in the case of a lot which comes to a point for the rear lot line, a line 10 feet

in length drawn from the rear corner shall serve as the rear lot line. All the other portions of the lot (not fronting on Humphreys Ct) are determined to be side yards.

If you have questions or would like to discuss this matter further, please not hesitate to contact me.

Sincerely,

Peter Britz,
Director Planning and Sustainability

Cc: Derek Durbin
Peter Stith
Trevor McCourt

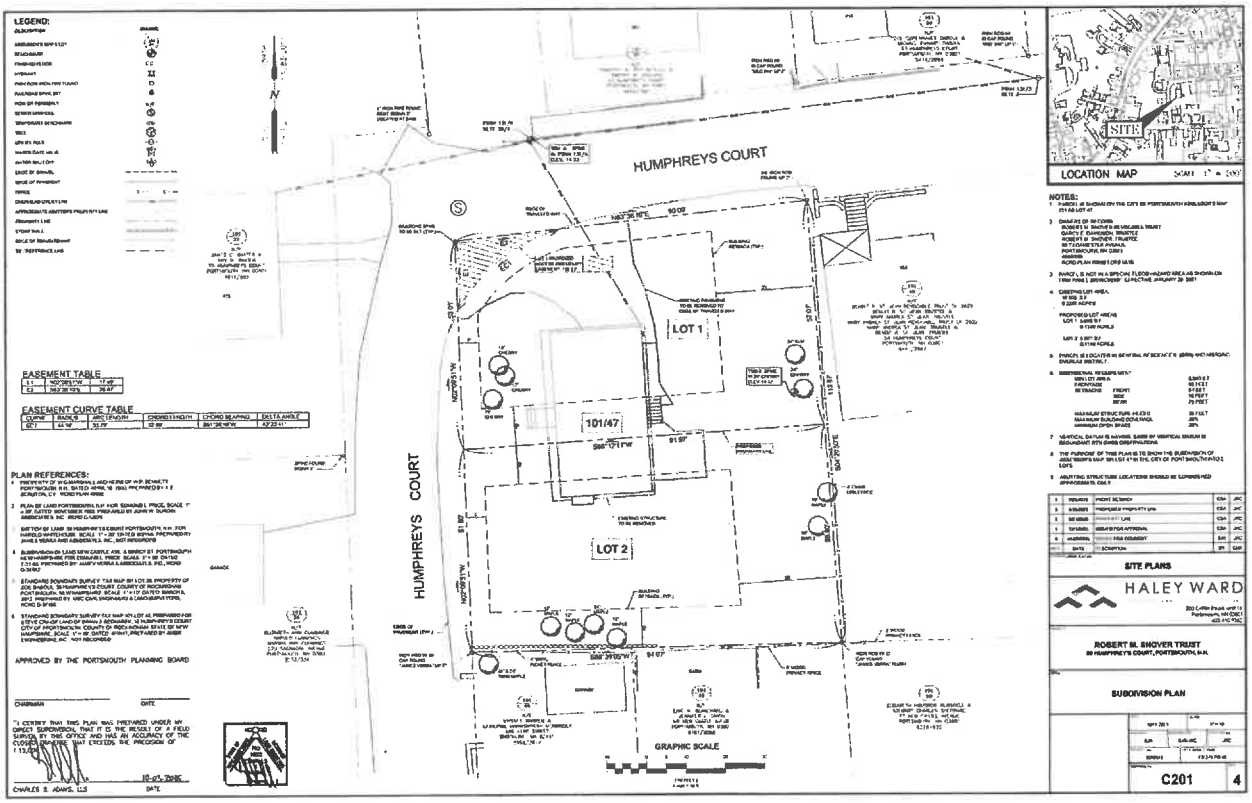


EXHIBIT B

Book: 6589 Page: 369

E # 24036944 11/27/2024 11:09:26 AM
Book 6589 Page 369 Page 1 of 2
Register of Deeds, Rockingham County

RETURN TO
Boynton, Waldron, Doleac,
Woodman & Scott, P.A.
82 Court Street
Portsmouth, NH 03801

LCHIP	ROA693767	25.00
TRANSFER TAX	RO133533	13,500.00
RECORDING		14.00
SURCHARGE		2.00

WARRANTY DEED WITH CERTICATE OF TRUSTEE

KNOW ALL PERSONS BY THESE PRESENTS THAT, I RALPH R. WOODMAN, JR., TRUSTEE OF THE WHITEHOUSE FAMILY REVOCABLE TRUST OF 2000, of 58 Humphreys Court, Portsmouth, Rockingham County, New Hampshire.

For consideration paid, grant to **DARCY E. DAVIDSON AND ROBERT M. SNOVER, AS TRUSTEES OF THE ROBERT M. SNOVER REVOCABLE TRUST u/t/a dated December 10, 1998, as amended and restated, with a mailing address of 60 TJ Gamester Avenue, Portsmouth County of Rockingham, State of New Hampshire 03801** with WARRANTY covenants, included in this conveyance is any and all personal property contents of the following described real estate:

The following described parcel of land with the buildings thereon situated in the City of Portsmouth, County of Rockingham and State of New Hampshire:

A certain tract of land, with the buildings thereon, situate on the Easterly side of Humphreys Court in said Portsmouth, more particularly bounded and described as follows:

BEGINNING at a point on the Easterly sideline of Humphreys Court at the Northwesterly corner of land of William and Ruth Atwell; thence Easterly by said Atwell land and land of heirs of Mary F. Tucker and Mary M. Woods, ninety-four feet (94') to a point at land of W.S. Call and George Strickland; thence Northerly by land of Strickland, one hundred thirteen feet (113') to Humphreys Court; thence Westerly by Humphreys Court, ninety feet (90') to a corner; thence Southerly by Humphreys Court, again one hundred five feet (105') to the point of beginning. Said tract of land is otherwise identified as Lot No. 26, Plan 5 of the Assessors Plan of the City of Portsmouth a/k/a Tax Map 101, Lot 47.

Being the same premises described in deed of Harold Whitehouse, Jr. and Ruth I. Whitehouse and Karen McKearney to The Whitehouse Family Revocable Trust of 2000 dated August 2, 2000 recorded in the Rockingham County Registry of Deeds at Book 3495, Page 2040.

TRUSTEES' CERTIFICATE PURSUANT TO NH R.S.A. 564-A:7 II

(1) The undersigned Trustee as Trustee under The Whitehouse Family Revocable Trust a/k/a The Whitehouse Family Trust of 2000 u/t/a dated August 2, 2000 (as amended), created by Harold Whitehouse, Jr. and Ruth I. Whitehouse as Grantors under a certain Declaration of Trust, has full and absolute power in said trust agreement to convey any interest in real estate and improvements thereon held in said trust and no purchaser or third party shall be bound to inquire whether the Trustee has said power or are properly exercising said power or to see to the application of any trust asset paid to the Trustees for a conveyance thereof. (2) The Trustee has received all necessary or desirable direction from the beneficiaries of the trust agreement. (3) The trust agreement is a trust as defined by New Hampshire RSA 564-A:1 I, the trust has not been revoked and is still in full force and effect.

Dated as of this 26th day of November, 2024.

The Whitehouse Family Revocable Trust of 2000
u/t/a dated August 2, 2000 (as amended)

Witness Mandy Bowden

By: _____
Ralph R. Woodman, Jr., Trustee

STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS.

On this the 26th day of November, 2024, before me, the undersigned officer, personally appeared Ralph R. Woodman, Jr. as Trustee of The Whitehouse Family Revocable Trust of 2000 a/k/a The Whitehouse Family Trust of 2000 u/t/a dated August 2, 2000 (as amended) known to me or satisfactorily proven to be the persons whose names are subscribed to the within document and acknowledged that they executed the same for the purposes contained therein.

Notary Public/Justice of the Peace

MANDY D. BOWDEN NOTARY PUBLIC Exp. June 26, 2029 NEW HAMPSHIRE

EXHIBIT C

#0092

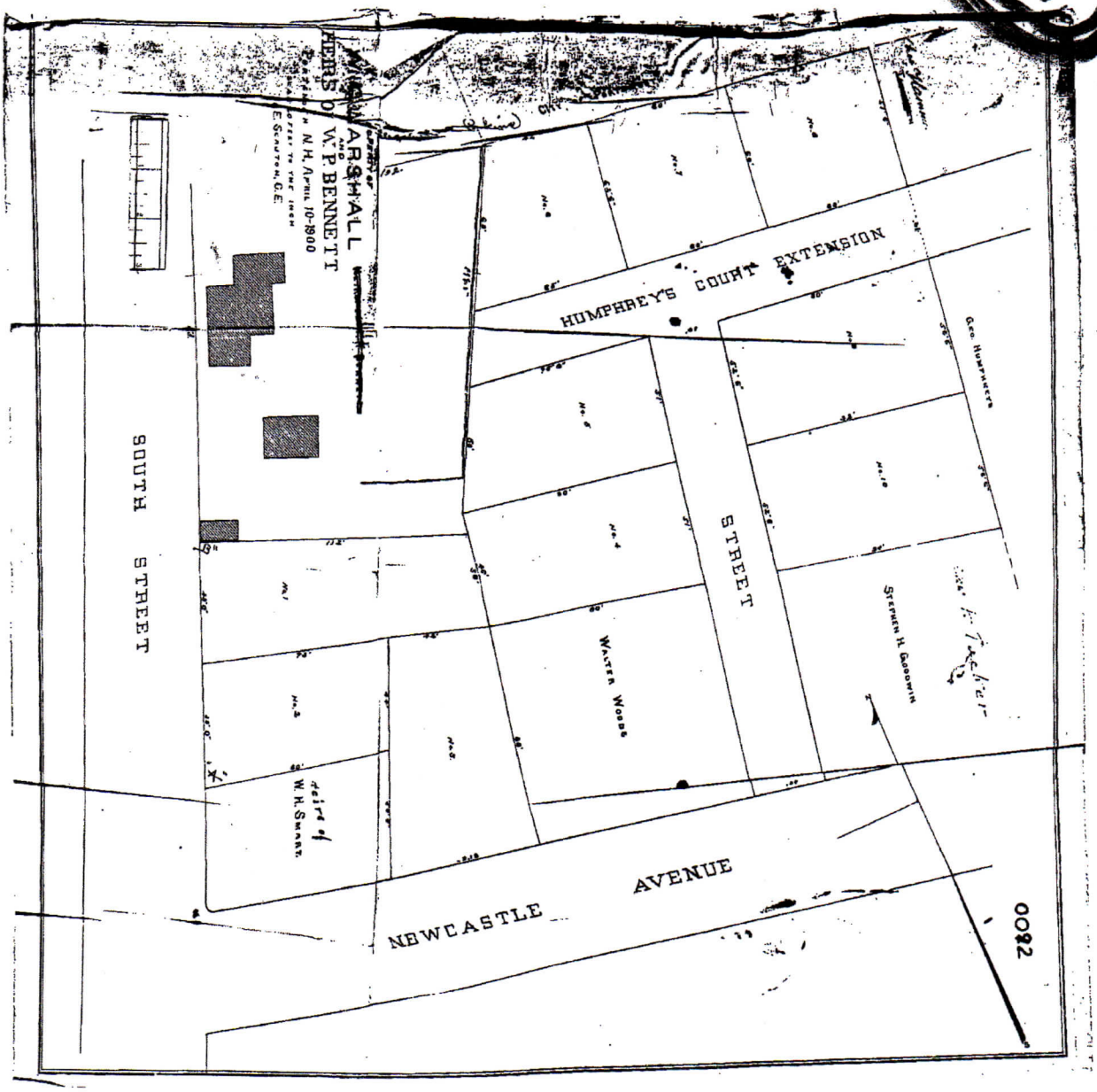
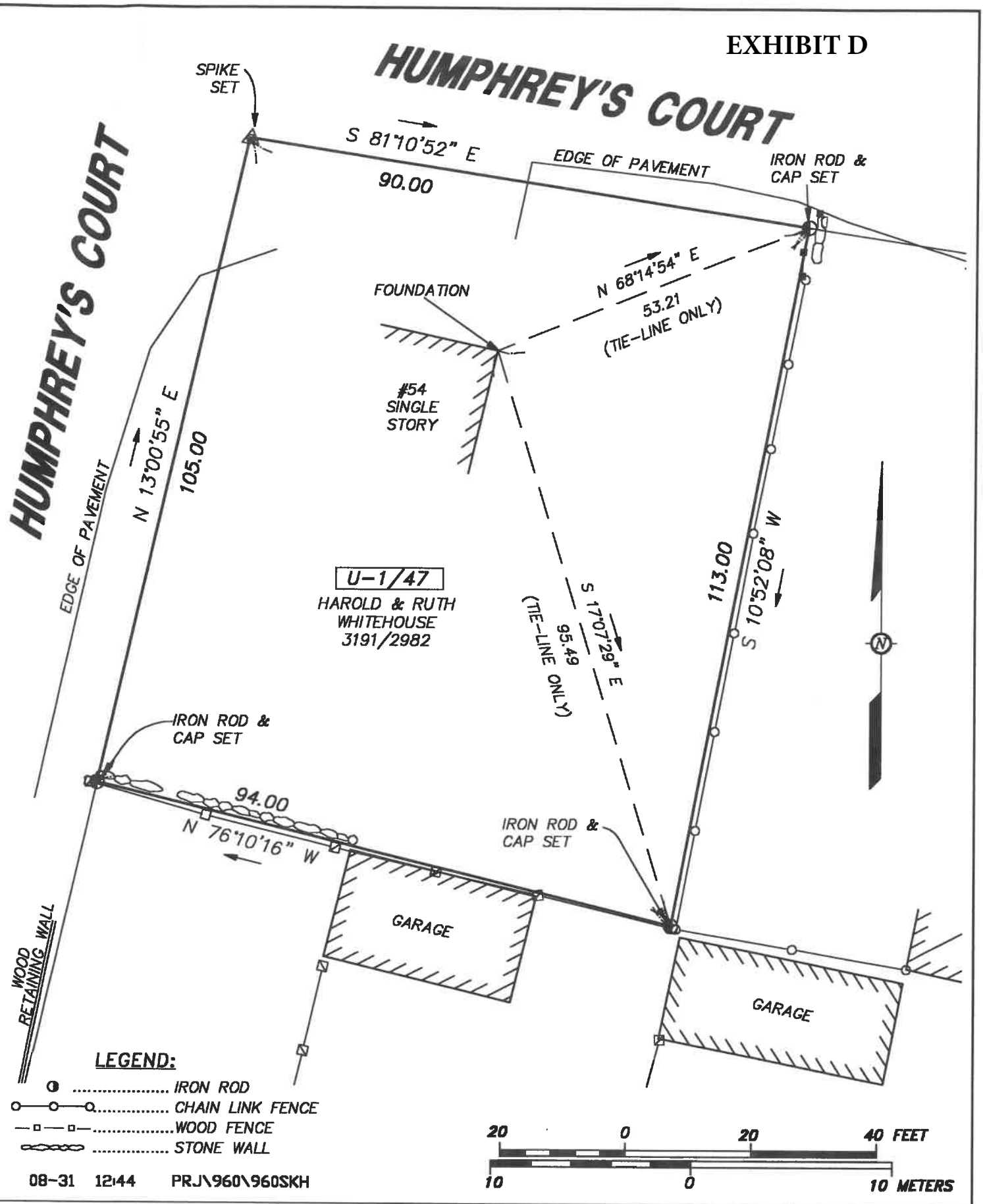


EXHIBIT D



08-31 12:44 PRJ\960\960SKH

SKETCH OF LAND, 58 HUMPHREY'S COURT PORTSMOUTH, N.H., for HAROLD WHITEHOUSE

JAMES VERRA and ASSOCIATES, INC. -- 445 U.S. ROUTE 1 BY-PASS -- PORTSMOUTH, N.H.
(207) - 436 3557 FAX (207) -436-8339
(c) Copyright 1998

DATE:	8/31/98
JOB NO.	20960
PLAN NO.	20960
SCALE:	20'

III. NEW BUSINESS

G. The request of **Robert M Snover Revocable Trust (Owners)**, for property located at **58 Humphrey's Court** whereas relief is needed to subdivide the existing parcel into two parcels which requires the following: 1) Variance from Section 10.521 to allow a) 51.8 feet of continuous street frontage where 80 feet is required, b) 4,840 square feet of lot area where 5,000 square feet are required; and c) 4,840 square feet of lot area per dwelling unit where 5,000 square feet are required. Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-168)

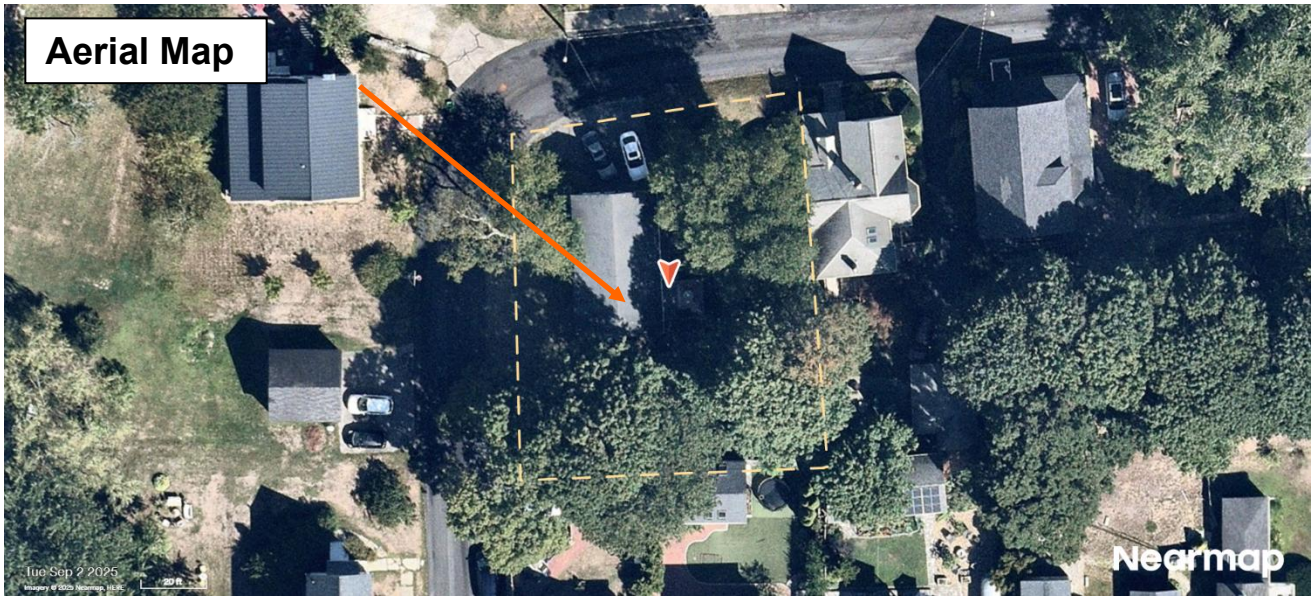
Existing & Proposed Conditions

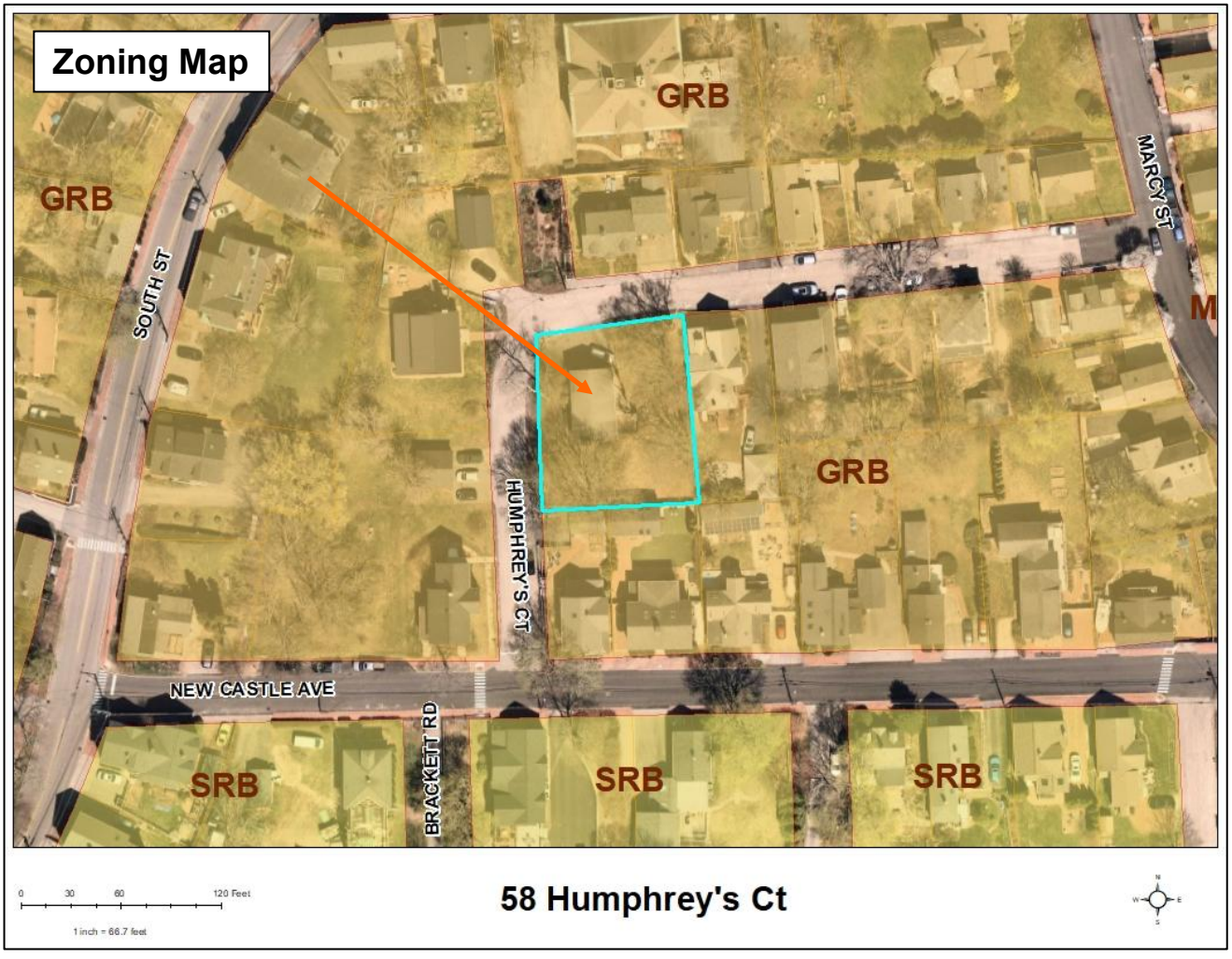
	Existing	Proposed	Permitted / Required	
Land Use:	Single-family residence	Subdivide into two parcels	Primarily residential	
Lot area (sq. ft.):	10,005	Lot 1: 5,003 Lot 2: 4,840	5,000	min
Lot area per dwelling unit (sq. ft.)	10,005	Lot 1: 5,003 Lot 2: 4,840	5,000	min.
Frontage (ft.)	194	Lot 1:102 Lot 2:51.8	80	min.
Depth	103	Lot 1: 90 Lot 2: 93	60	min.
Estimated Age of Structure:	1967	Variance request(s) shown in red.		

Other Permits/Approvals Required

- Subdivision Approval – TAC and Planning Board
- Building Permit

Neighborhood Context





Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is requesting relief to demolish the existing structure and subdivide the lot into two new lots. The proposed lot dimensions are outlined in the applicant's materials as well as in the zoning table. Should the Board overturn the Planning and Sustainability directors' interpretation pertaining to lot area, the variance for lot area and lot area per dwelling unit will not be needed.

Variance Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a) The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR
   Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

DURBIN LAW

Derek R. Durbin, Esq.
603.287.4764
derek@durbinlawoffices.com

BY: VIEWPOINT & HAND DELIVERY

November 18, 2025

City of Portsmouth
Attn: Stefanie Casella, Planner
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

RE: Variance Application of Robert M. Snover, Darcy Davidson, Trustees of the Robert M. Snover Revocable Trust
58 Humphry's Court, Tax Map 101, Lot 47

Dear Stefanie,

Please find a copy of the following materials relative to the above referenced variance application filed through Viewpoint for property located at 58 Humphry's Court, Portsmouth:

1) Landowner Letter of Authorization
2) Narrative to Variance Application with Exhibits
3) Existing Conditions Plan
4) Subdivision Plan
5) Assessor's Map Plan
6) Photographs of Property.

In addition to the above referenced variance application, the Applicants are filing an Appeal of an Administrative Decision under separate cover.

A copy of the above application materials is being delivered to the Planning Department. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,

Derek R. Durbin, Esq.

LANDOWNER LETTER OF AUTHORIZATION

Robert M. Snover and Darcy Davison, Trustees of the Robert M. Snover Revocable Trust, record owners of property located at **58 Humphry's Court, Portsmouth,** identified on **Tax Map Tax Map 101, Lot 47** (the "Property"), hereby authorize **Durbin Law Offices PLLC,** to file any building, zoning, planning or other municipal permit applications with the City of Portsmouth for said Property and to appear before its land use boards. This Letter of Authorization shall be valid until expressly revoked in writing.

Robert M. Snover Revocable Trust

Robert M. Snover, Trustee

Darcy Davidson, Trustee

CITY OF PORTSMOUTH
VARIANCE APPLICATION NARRATIVE

Robert M. Snover, Darcy Davidson
Trustees of the Robert M. Snover Revocable Trust
(Owners/Appellants)

58 Humphry's Court,
Portsmouth, NH 03801
Tax Map 101, Lot 47

INTRODUCTION

Robert M. Snover and Darcy Davidson, Trustees of the Robert M. Snover Revocable Trust (the "Applicants"), are the owners of the property at 58 Humphry's Court, Portsmouth, NH 03801 (the "Property" or the "Applicants' Property"). The Property is located in the General Residence B and Historic Overlay Zoning Districts. The Property is a 10,005 square foot lot that contains a single-family home that was occupied for several decades by Harold Whitehouse, a long-time former City Council member. The Property has 194.81' of continuous street frontage on Humphry's Court. The Property was once two separate lots that were first shown on a recorded plan from 1900 for the Humphry's Court neighborhood (the "1900 Plan"). **Exhibit A**. The Applicants are seeking to restore the Property to a two (2) lot configuration similar to the original layout, demolish the existing home, which is need of a "gut renovation", and build single-family homes on the newly created lots.

Because Humphry's Court wraps around the Property on two sides, the only way to subdivide the Property without requiring frontage relief is to create two triangularly shaped lots with a division line running diagonally through the middle of the Property. **Exhibit B**. The City Planning Department disfavors this approach. It feels that this approach is inconsistent with the intent of Section VI.2.A of the City's Subdivision Regulations, which encourages a more rectangular or square lot configurations in relation to existing streets. **Exhibit C**. Section VI.2.A ("Lot Arrangement") reads as follows: "In all quadrangular lots, and so far as practicable all other lots, the side lines shall be at right angles to straight street lines or radial to curved street lines. An arrangement placing lots at right angles to one another shall be avoided where practicable."

In response to the Planning Department's concern, the Applicants revised their subdivision plan to create two quadrangular lots in nearly the same configuration as the lots shown on the 1900 plan for Humphry's Court. The Technical Advisory Committee ("TAC") reviewed the proposed subdivision plan on October 7th. TAC did not express any concerns with the proposed subdivision plan but voted to postpone its consideration of the request until the Applicants could apply to the Zoning Board of Adjustment (the "Board") for a frontage variance and any other zoning relief the City determined necessary. On October 21, 2025, Planning Director Peter Britz issued a letter outlining what variances the Applicants needed for their subdivision plan. The foregoing Variance Application and an Administrative Appeal challenging the Planning Director's interpretation of the "lot area" definition contained within the Zoning Ordinance (the "Ordinance") follows.

It is important to note that the Applicants have requested a lot area variance and addressed the five (5) variance criteria for granting it, but the Administrative Appeal may render that request moot.

SUMMARY OF ZONING RELIEF

The Applicant seeks the following variance approvals from the Board:

Section 10.521

(a) To allow 51.8' (+/-) of continuous street frontage where 80 is required (Proposed Lot 2).

(b) To allow lot area of 4,840 square feet where 5,000 square feet is required (Proposed Lot 1).[1]

VARIANCE CRITERIA

Granting the variances will not be contrary to the spirit and intent of the Zoning Ordinance or the public interest.

In the case of Chester Rod & Gun Club, Inc. v. Town of Chester, the Court noted that since the provisions of all ordinances represent a declaration of public interest, any variance will, in some measure, be contrary to the ordinance, but to be contrary to the public interest or injurious to public rights of others, "the variance must 'unduly, and in a marked degree' conflict with the ordinance such that it violates the ordinance's 'basic zoning objectives." "Id. The Court observed that "[t]here are two methods of ascertaining whether granting a variance would violate an ordinance's basic zoning objectives: (1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative; and (2) examining whether granting the variance would threaten the public health, safety, or welfare." Id.

The purpose of General Residence B ("GRB") Zoning is [t]o provide areas for **single-family**, **two-family** and **multifamily dwellings**, with appropriate **accessory uses**, at moderate to high densities (ranging from approximately 5 to 12 **dwelling units** per acre), together with appropriate **accessory uses** and limited services. P.Z.O. Sec. 10.410.

Lot area and frontage requirements in zoning serve similar purposes. They are both utilized as a means for controlling density. In addition, they are often utilized to maintain the streetscape and character of residential neighborhoods.

[1] As noted, the Applicants have challenged the Planning Director's interpretation of the "lot area" definition within the Zoning Ordinance and the application thereof to the Property. Should the Board determine that the Applicants' interpretation is the correct one, no lot area variance is needed for the proposed subdivision.

The Humphry's Court neighborhood consists primarily of lots that do not meet the Ordinance's dimensional requirements, particularly with respect to lot area and frontage. In fact, out of the eleven (11) properties on Humphry's Court, there are only three (3) properties, including the Applicants' property, that meet both the lot area and frontage requirements. **Exhibit D**.

The average lot size of the ten (10) properties surrounding the Applicants' Property (the "surrounding properties") on Humphry's Court is approximately 4,888 square feet. Seven (7) of the surrounding properties (70%) have less than what is shown for Proposed Lot 1 on the Applicants' Subdivision Plan. Proposed Lot 1 will have 4,840 square feet of lot area not counting the 163 square foot paved area in the northwest corner of the Property and will be greater than most of the surrounding properties and consistent with the neighborhood average,

The average frontage of the surrounding ten (10) properties is approximately 65'. Four (4) of these properties have less than 52' of continuous street frontage. Only (3) of the surrounding properties meet the 80' frontage requirement set forth in the Ordinance. Proposed Lot 2 will have 51.8' of continuous street frontage, which is consistent with half of the surrounding properties on Humphry's Court and only a minor deviation from the neighborhood average.

If you look more broadly at the entire area surrounding the Applicants' Property, the properties that meet one or both the lot area and frontage requirements in the GRB Zoning District are the exception to the rule. The Applicants' Property has substantially more street frontage (195') than all the other properties on Humphry's Court or in the surrounding area. It is also larger than all but one other property on the street. It has more than twice the required street frontage. It appears that most of the properties on Humphry's Court remain in the same configuration as shown on the 1900 Plan. The Applicants are seeking to return their property to a two (2) lot configuration, which is consistent with character of the surrounding neighborhood in terms of frontage and lot area. For the foregoing reasons, granting variance(s) will not alter the essential character of the neighborhood or negatively affect public health, safety or welfare.

Substantial Justice will be done in granting the variances.

To determine whether substantial justice is done, the Board must balance the equities between the rights of a private landowner and the public interest in deciding whether to grant or deny a variance request. The "only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997); Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102 (2007).

It represents a loss to the Applicants to deny them the opportunity to subdivide their property in a manner that conforms to the historic character of the Humphry's Court neighborhood. The Applicants have almost 2.5x the required frontage to subdivide the Property by right but for the fact that the City and/or its Subdivision Regulations disfavor the lot configurations previously proposed by the Applicants. There is no gain to the public if the variances are denied. Not only does the subdivision of the Property conform to the general purpose behind SRB Zoning and its

density goals, but what is proposed maintains the general character and streetscape of Humphry's Court.

Surrounding property values will not be diminished by granting the variance.

There is no credible evidence that could be presented that would suggest that the subdivision of the Property would lead to a devaluation of surrounding properties. The subdivision will not change the character of the neighborhood in the context of the frontage and lot area requirements, and thus, will not negatively impact surrounding property values. Anything that is constructed on the lots will have to comply with the building setback, coverage and open space requirements, thus preserving the light, air and space of abutting properties.

Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

The Property has special conditions that distinguish it from surrounding properties. It has 194.81'continuous street frontage, which is greater than any other property on Humphry's Court and exceeds what the Ordinance requires for a subdivision into two (2) lots. However, the street wraps around two sides of the Property in a manner that, in the City's view, prevents a subdivision of the Property that both conforms to both the Subdivision Regulations and the frontage requirement of the Zoning Ordinance.

In addition, the Property has 10,005 square feet of deeded land area in a zoning district that only requires 5,000 square feet of "lot area", although the City has determined that only 4,840 square feet can be counted towards the requirement. Accordingly, Proposed Lot 1 is arguably deficient by 160 square feet, which is just larger than a standard guest bedroom. The difference between a 5,000 square foot lot and a 4,840 square foot lot is imperceptible to most humans. Furthermore, whether the lot is 5,003 square feet or 4,840 square feet, it is still larger than most surrounding properties on Humphry's Court and is consistent with the density goals of GRB Zoning.

In the case of *Belanger v. Nashua*, the NH Supreme Court determined that municipalities have an obligation to have their zoning ordinances reflect the current character of neighborhoods. Belanger v. Nashua, 121 N.H. 389 (1981). Absent this, the Board must consider the prevailing character of a neighborhood as part of its analysis. In the present case, the GRB frontage and lot area requirements do not reflect the character of the Humphry's Court neighborhood.

As a result of the foregoing special conditions of the Property, there is no fair and substantial relationship between the general purposes of the frontage and lot area requirements and their application to the Property. In the end, the proposed lots will be consistent with other lots through the Humphry's Court neighborhood in terms of frontage and lot size.

Conclusion

The Applicants thank you for your time and consideration and hope that you will approve the variances that have been requested.

Respectfully submitted,

Derek R. Durbin, Esq.
144 Washington Street
Portsmouth, NH 03801
derek@durbinlawoffices.com

EXHIBIT A

#0092

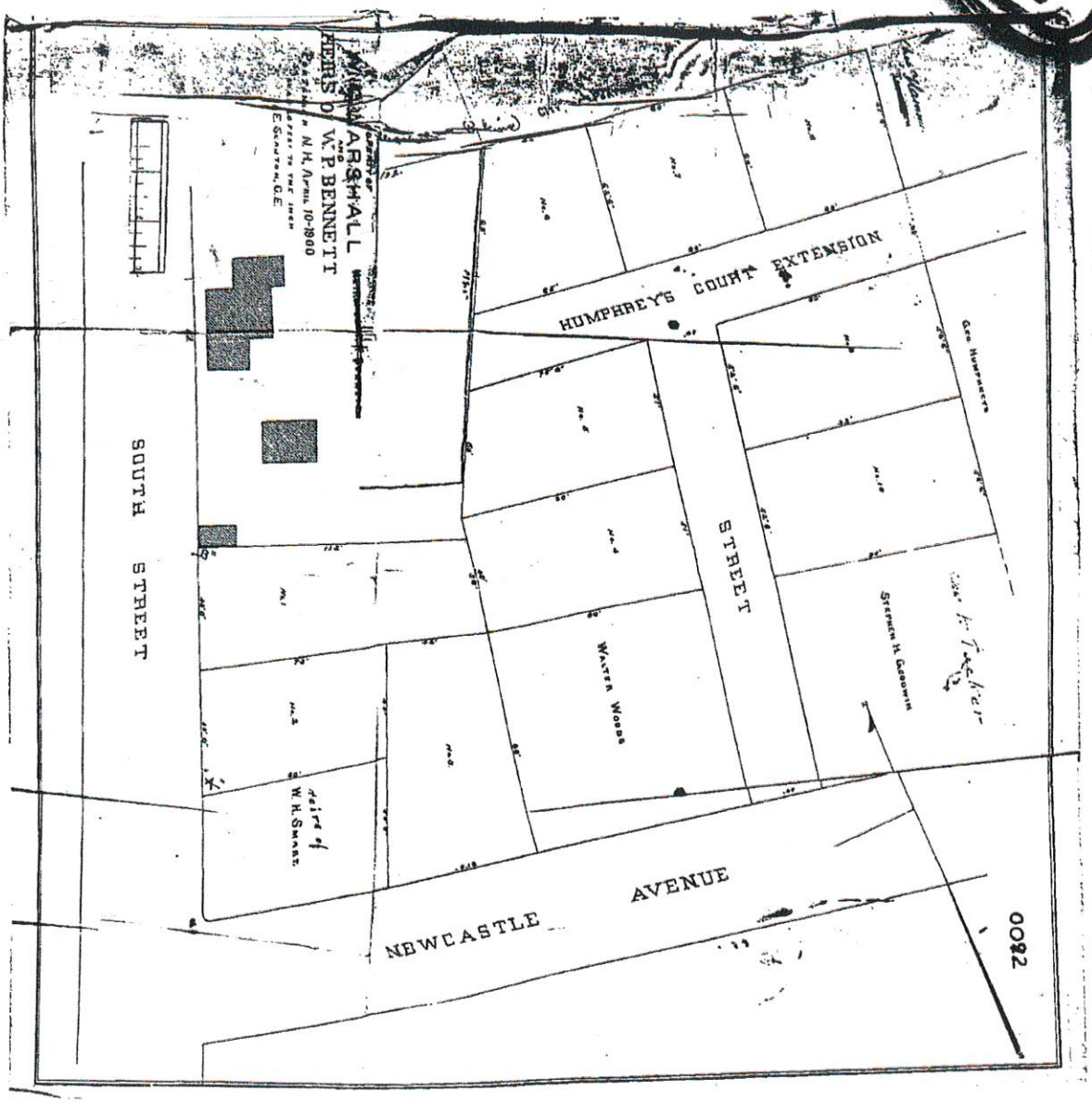
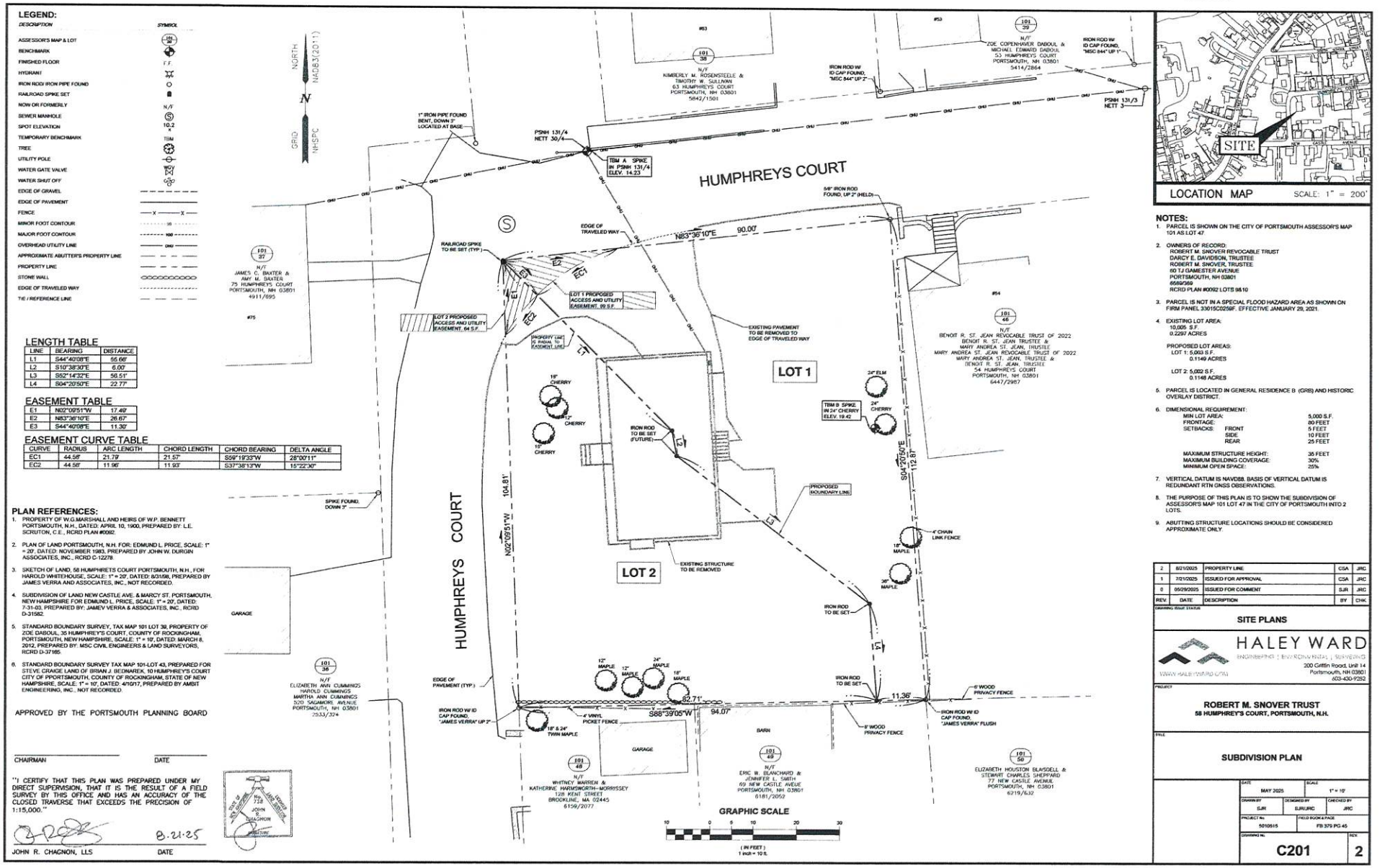


EXHIBIT B



LENGTH TABLE

LINE	BEARING	DISTANCE
L1	S44°40'08"E	55.66'
L2	S10°38'30"E	6.00'
L3	S62°14'32"E	56.51'
L4	S04°20'50"E	22.77'

EASEMENT TABLE

E1	N02°09'51"W	17.49'
E2	N83°36'10"E	26.67'
E3	S44°40'08"E	11.36'

EASEMENT CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
EC1	44.58'	21.79'	21.57'	S59°19'33"W	28°00'11"
EC2	44.58'	11.96'	11.93'	S37°38'13"W	15°22'30"

PLAN REFERENCES:

1. PROPERTY OF W.G.MARSHALL AND HEIRS OF W.P. BENNETT PORTSMOUTH, N.H., DATED: APRIL 10, 1900, PREPARED BY: L.E. SCRUTON, C.E., RCRD PLAN #0092.
2. PLAN OF LAND PORTSMOUTH, N.H. FOR: EDMUND L. PRICE, SCALE: 1" = 20', DATED: NOVEMBER 1983, PREPARED BY JOHN W. DURGIN ASSOCIATES, INC., RCRD C-12278.
3. SKETCH OF LAND, 58 HUMPHRETS COURT PORTSMOUTH, N.H., FOR HAROLD WHITEHOUSE, SCALE: 1" = 20', DATED: 8/31/98, PREPARED BY JAMES VERRA AND ASSOCIATES, INC., NOT RECORDED.
4. SUBDIVISION OF LAND NEW CASTLE AVE. & MARCY ST. PORTSMOUTH, NEW HAMPSHIRE FOR EDMUND L. PRICE, SCALE: 1" = 20', DATED: 7-31-03, PREPARED BY: JAMEV VERRA & ASSOCIATES, INC., RCRD D-31582.
5. STANDARD BOUNDARY SURVEY, TAX MAP 101 LOT 39, PROPERTY OF ZOE DABOUL, 35 HUMPHREY'S COURT, COUNTY OF ROCKINGHAM, PORTSMOUTH, NEW HAMPSHIRE, SCALE: 1" = 10', DATED: MARCH 8, 2012, PREPARED BY: MSC CIVIL ENGINEERS & LAND SURVEYORS, RCRD D-37165.
6. STANDARD BOUNDARY SURVEY TAX MAP 101-LOT 43, PREPARED FOR STEVE CRAIGE LAND OF BRIAN J. BEDNAREK, 10 HUMPHREY'S COURT CITY OF PPORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 10', DATED: 4/10/17, PREPARED BY AMBIT ENGINEERING, INC., NOT RECORDED.

APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN DATE

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

JOHN R. CHAGNON, LLS DATE 8.21.25

NOTES:

1. PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 101 AS LOT 47
2. OWNERS OF RECORD:
   ROBERT M. SNOVER REVOCABLE TRUST
   DARCY E. DAVIDSON, TRUSTEE
   ROBERT M. SNOVER, TRUSTEE
   60 TJ GAMESTER AVENUE
   PORTSMOUTH, NH 03801
   6559/350
   RCRD PLAN #0092 LOTS 9&10
3. PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F, EFFECTIVE JANUARY 29, 2021.
4. EXISTING LOT AREA:
   10,005 S.F.
   0.2297 ACRES
   PROPOSED LOT AREAS:
   LOT 1: 5,003 S.F.
   0.1149 ACRES
   LOT 2: 5,002 S.F.
   0.1148 ACRES
5. PARCEL IS LOCATED IN GENERAL RESIDENCE B (GRB) AND HISTORIC OVERLAY DISTRICT.
6. DIMENSIONAL REQUIREMENT:

MIN LOT AREA:		5,000 S.F.
FRONTAGE:		80 FEET
SETBACKS:	FRONT	5 FEET
	SIDE	10 FEET
	REAR	25 FEET
MAXIMUM STRUCTURE HEIGHT:		35 FEET
MAXIMUM BUILDING COVERAGE:		30%
MINIMUM OPEN SPACE:		25%

7. VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
8. THE PURPOSE OF THIS PLAN IS TO SHOW THE SUBDIVISION OF ASSESSOR'S MAP 101 LOT 47 IN THE CITY OF PORTSMOUTH INTO 2 LOTS.
9. ABUTTING STRUCTURE LOCATIONS SHOULD BE CONSIDERED APPROXIMATE ONLY

REV.	DATE	DESCRIPTION	BY	CHK.
2	8/21/2025	PROPERTY LINE	CSA	JRC
1	7/21/2025	ISSUED FOR APPROVAL	CSA	JRC
0	05/29/2025	ISSUED FOR COMMENT	SJR	JRC

DRAWING ISSUE STATUS

SITE PLANS

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
WWW.HALEYWARD.COM
200 Griffin Road, Unit 14
Portsmouth, NH 03801
603-430-9282

PROJECT

ROBERT M. SNOVER TRUST
58 HUMPHREY'S COURT, PORTSMOUTH, N.H.

TITLE

SUBDIVISION PLAN

DATE	SCALE
MAY 2025	1" = 10'
DRAWN BY: SJR	DESIGNED BY: SJR/JRC
CHECKED BY: JRC	
PROJECT No. 5010515	FIELD BOOK & PAGE FB 379 PG 45
DRAWING No. C201	REV. 2

EXHIBIT B

SECTION VI - GENERAL REQUIREMENTS

The following shall be considered as minimum requirements and will be varied by the Board only under the conditions and circumstances set forth in these regulations.

1. Basic Requirements

A. Conformity to Official Plan or Map

The subdivision shall be in harmony with the Master Plan and/or Official map of the City.

B. Hazards

The land to be subdivided shall be of such character that it can be used safely without danger to health or peril from fire, flood, soil failure, or other hazard.

C. Relation to Topography

The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or about the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

D. Planned Unit Development

The Planning Board may approve a planned unit development provided such development is consistent with the Zoning Ordinance of the City of Portsmouth, Article 7 – Flexible Development, Sections 10.710 and 10.720.

2. Lots

A. Lot Arrangement

In all quadrangular lots, and so far as practicable all other lots, the side lines shall be at right angles to straight street lines or radial to curved street lines. An arrangement placing lots at right angles to one another shall be avoided where practicable.

B. Lot Sizes

Lot dimensions shall conform to the requirements of the Zoning Ordinance of the City of Portsmouth. Corner lots shall have at least 10% extra width to permit appropriate building setback from the orientation to both streets.

C. Commercial and Industrial Lots

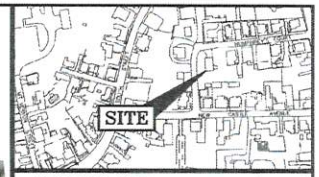
EXHIBIT D

MAP/LOT	ADDRESS	AREA	FRONTAGE
101/39	53 HUMPHREY'S COURT	3,398 SF	59'
101/40	43 HUMPHREY'S COURT	2,526 SF	46.41'
101/41	33 HUMPHREY'S COURT	2,744 SF	53.5'
101/42	23 HUMPHREY'S COURT	2,178 SF	40'
101/44	22 HUMPHREY'S COURT	4,879 SF	51'
101/45	44 HUMPHREY'S COURT	8,451 SF	100'
101/46	54 HUMPHREY'S COURT	5,750 SF	50'

*NOTE: TABLE INFORMATION TAKEN FROM CITY OF PORTSMOUTH TAX MAP

MAP/LOT	ADDRESS	AREA	FRONTAGE
101/37	75 HUMPHREY'S COURT	11,326 SF	106.7'
101/38	63 HUMPHREY'S COURT	3,833 SF	63.9'
101/43	10 HUMPHREY'S COURT	3,790 SF	82'





LOCATION MAP SCALE: 1" = 200'

NOTES:

1. PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 101 AS LOT 47.
2. OWNERS OF RECORD:
   ROBERT M. SNOVER REVOCABLE TRUST
   DARCY E. DAVIDSON, TRUSTEE
   ROBERT M. SNOVER, TRUSTEE
   62 TJ GAMESTER AVENUE
   PORTSMOUTH, NH 03801
   6580/369
   RCRD PLAN #0092 LOTS 9&10
3. PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F EFFECTIVE JANUARY 29, 2021.
4. EXISTING LOT AREA PER PROPERTY TITLE:
   10,005 S.F.
   0.2297 ACRES

   PROPOSED LOT AREAS PER PROPERTY TITLE:
   LOT 1:
   5,003 S.F. (4,846 S.F. W/O EASEMENT AREA)
   0.1149 ACRES (0.1111 ACRES W/O EASEMENT AREA)

   LOT 2: 5,002 S.F.
   0.1148 ACRES
5. PARCEL IS LOCATED IN GENERAL RESIDENCE B (GRB) AND HISTORIC OVERLAY DISTRICT.
6. DIMENSIONAL REQUIREMENT:

MIN LOT AREA:		5,000 S.F.
FRONTAGE:		80 FEET
SETBACKS:	FRONT	5 FEET
	SIDE	10 FEET
	REAR	25 FEET
MAXIMUM STRUCTURE HEIGHT:		35 FEET
MAXIMUM BUILDING COVERAGE:		30%
MINIMUM OPEN SPACE		25%

7. VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
8. THE PURPOSE OF THIS PLAN IS TO SHOW THE DEVELOPMENT AND CHARACTER OF THE HUMPHREYS COURT NEIGHBORHOOD.
9. ABUTTING STRUCTURE LOCATIONS SHOULD BE CONSIDERED APPROXIMATE ONLY.

REV	DATE	DESCRIPTION	BY	CHK
1	10/28/2025	LOT SETBACKS & TABLE	SJR	JRC
0	10/23/2025	ISSUED FOR COMMENT	SJR	JRC

DRAWING ISSUE STATUS

SITE PLANS

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
WWW.HALEYWARD.COM
200 Griffin Road, Unit 14
Portsmouth, NH 03801
603-430-9282

PREPARED FOR:

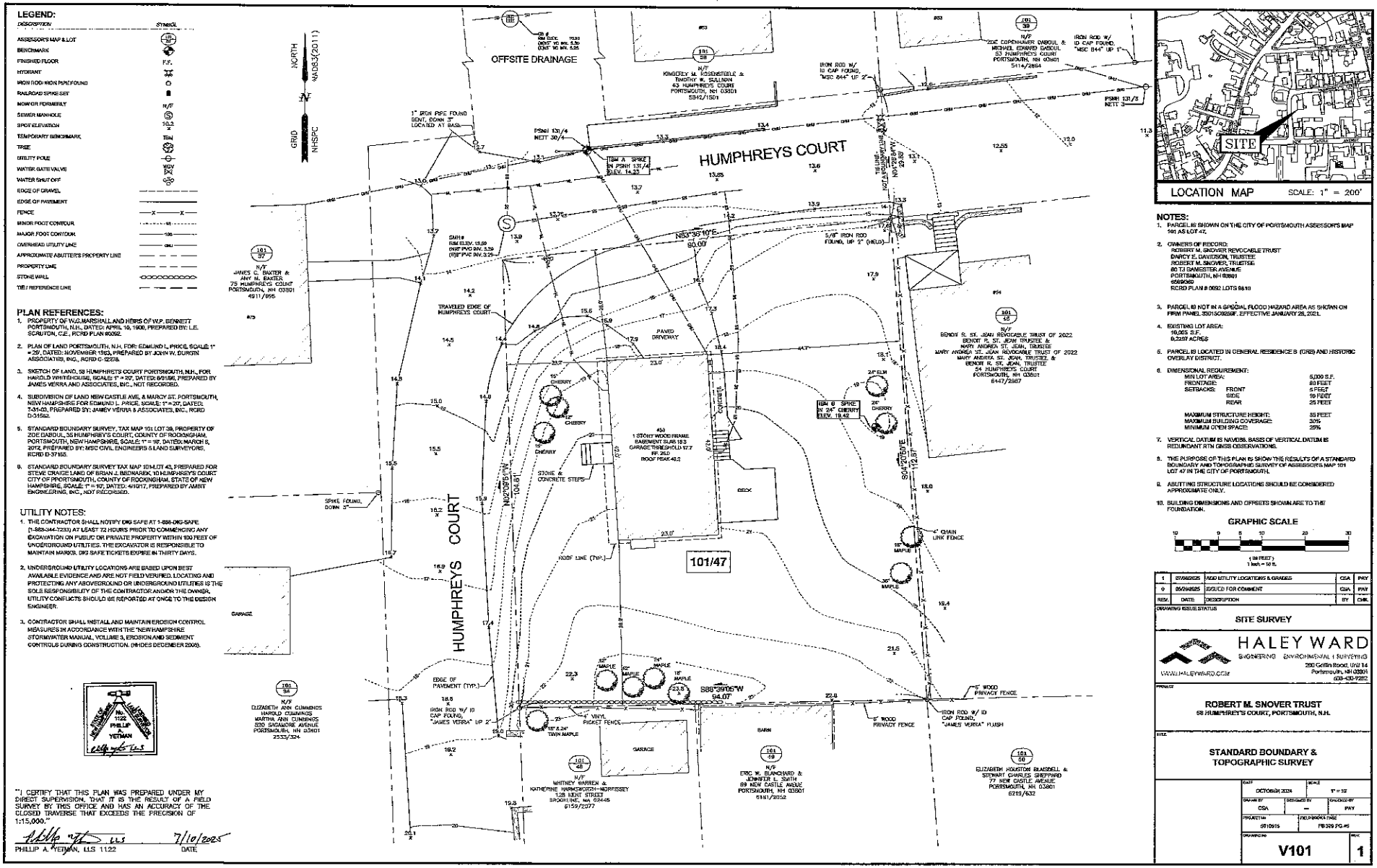
ROBERT M. SNOVER TRUST
58 HUMPHREY'S COURT, PORTSMOUTH, N.H.

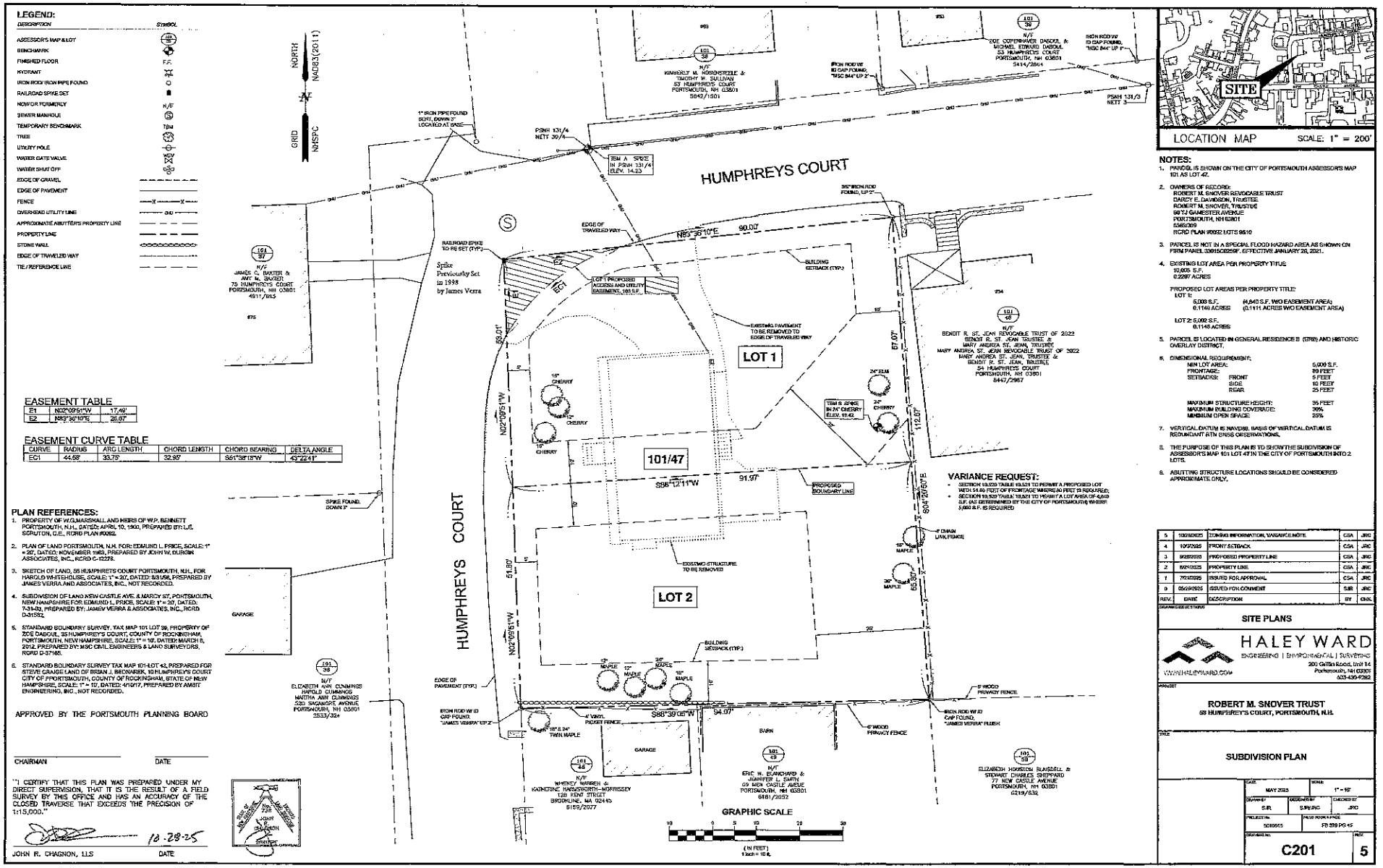
TITLE

ORTHOPHOTO PLAN

DATE	SCALE
OCTOBER 2025	1" = 20'
DRAWN BY: CSA	DESIGNED BY	CHECKED BY: JRC
PROJECT No: 10105/15	FIELD BOOK & PAGE: FB 375 PG 45
DRAWING No: C202	REV: 1

EXHIBIT D


LEGEND:
DESCRIPTION
SYMBOL
ASSESSOR'S MAP & LOT
BENCHMARK
FINISHED FLOOR
F.F.
HYDRANT
IRON ROD/ IRON PIPE FOUND
RAILROAD SPIKE SET
NOW OR FORMERLY
N/F
SEWER MANHOLE
SPOT ELEVATION
10.2
TEMPORARY BENCHMARK
TBM
TREE
UTILITY POLE
WATER GATE VALVE
WGV
WATER SHUT OFF
WSO
EDGE OF GRAVEL
EDGE OF PAVEMENT
FENCE
MINOR 100' CONTOUR
MAJOR 100' CONTOUR
OVERHEAD UTILITY LINE
APPROXIMATE ABUTTER'S PROPERTY LINE
PROPERTY LINE
STONE WALL
TIE / REFERENCE LINE
PLAN REFERENCES:
1. PROPERTY OF W.G.MARSHALL AND HEIRS OF W.P. BENNETT PORTSMOUTH, N.H., DATED: APRIL 10, 1900, PREPARED BY: L.E. SCRUTON, C.E., RCRD PLAN #0352.
2. PLAN OF LAND PORTSMOUTH, N.H. FOR: EDMUND L. PRICE, SCALE: 1" = 20', DATED: NOVEMBER 1953, PREPARED BY JOHN W. DURGIN ASSOCIATES, INC., RCRD C-12278.
3. SKETCH OF LAND, 59 HUMPHREYS COURT PORTSMOUTH, N.H., FOR HAROLD WHITEHOUSE, SCALE: 1" = 20', DATED: 6/5/96, PREPARED BY JAMES VERRA AND ASSOCIATES, INC., NOT RECORDED.
4. SUBDIVISION OF LAND NEW CASTLE AVE. & MARCY ST. PORTSMOUTH, NEW HAMPSHIRE FOR EDMUND L. PRICE, SCALE: 1" = 20', DATED: 7-31-03, PREPARED BY: JAMEY VERRA & ASSOCIATES, INC., RCRD D-31502.
5. STANDARD BOUNDARY SURVEY, TAX MAP 101 LOT 39, PROPERTY OF ZOE DABOUL, 53 HUMPHREY'S COURT, COUNTY OF ROCKINGHAM, PORTSMOUTH, NEW HAMPSHIRE, SCALE: 1" = 10', DATED: MARCH 8, 2012, PREPARED BY: MSC CIVIL ENGINEERS & LAND SURVEYORS, RCRD D-37165.
6. STANDARD BOUNDARY SURVEY TAX MAP 101/LOT 45, PREPARED FOR STEVE CRAIGE LAND OF BRIAN J. BEDNAREK, 10 HUMPHREY'S COURT CITY OF PROTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 10', DATED: 4/10/17, PREPARED BY AMIST ENGINEERING, INC., NOT RECORDED.
UTILITY NOTES:
1. THE CONTRACTOR SHALL NOTIFY DIG SAFE AT 1-888-DIG-SAFE (1-888-344-7233) AT LEAST 72 HOURS PRIOR TO COMMENCING ANY EXCAVATION ON PUBLIC OR PRIVATE PROPERTY WITHIN 100 FEET OF UNDERGROUND UTILITIES. THE EXCAVATOR IS RESPONSIBLE TO MAINTAIN MARKS. DIG SAFE TICKETS EXPIRE IN THIRTY DAYS.
2. UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. LOCATING AND PROTECTING ANY ABOVEGROUND OR UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND/OR THE OWNER. UTILITY CONFLICTS SHOULD BE REPORTED AT ONCE TO THE DESIGN ENGINEER.
3. CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH THE "NEW HAMPSHIRE STORMWATER MANUAL, VOLUME 3, EROSION AND SEDIMENT CONTROLS DURING CONSTRUCTION. (WHDES DECEMBER 2008).
NORTH (NAD83(2011))
GRID
NHSPC
OFFSITE DRAINAGE
HUMPHREYS COURT
N/F JAMES C. BAXTER & AMY M. BAXTER 75 HUMPHREYS COURT PORTSMOUTH, NH 03801 4911/695
101/37
N/F KIMBERLY M. KISSINSTEELE & TIMOTHY W. SULLIVAN 63 HUMPHREYS COURT PORTSMOUTH, NH 03801 5342/1501
101/39
N/F ZOE COPENHAVER DABOUL & MICHAEL EDWARD DABOUL 53 HUMPHREYS COURT PORTSMOUTH, NH 03801 5414/2854
N/F BENOIT R. ST. JEAN REVOCABLE TRUST OF 2022 BENOIT R. ST. JEAN TRUSTEE & MARY ANDREA ST. JEAN, TRUSTEE MARY ANDREA ST. JEAN REVOCABLE TRUST OF 2022 MARY ANDREA ST. JEAN, TRUSTEE & BENOIT R. ST. JEAN, TRUSTEE 54 HUMPHREYS COURT PORTSMOUTH, NH 03801 6447/2987
101/46
N/F ELIZABETH ANN CUMMINGS HAROLD CUMMINGS MARTHA ANN CUMMINGS 520 SAGAMORE AVENUE PORTSMOUTH, NH 03801 2533/324
101/94
N/F WHITNEY WARREN & KATHERINE HARMSWORTH-NORRISSEY 128 KENT STREET BROOKLINE, MA 02445 6159/2077
101/45
N/F ERIC W. BLANCHARD & JENNIFER L. SMITH 69 NEW CASTLE AVENUE PORTSMOUTH, NH 03801 5181/2052
101/48
N/F ELIZABETH HOUSTON BLAISDELL & STEWART CHARLES SHEPPARD 77 NEW CASTLE AVENUE PORTSMOUTH, NH 03801 6215/632
101/50
101/47
PSNH 131/4 NETT 30/4
PSNH 131/3 NETT 3
TBM A SPIKE IN PSNH 131/4 ELEV. 14.33
TBM B SPIKE IN 24" CHERRY ELEV. 19.42
IRON ROD W/ ID CAP FOUND, "MSC 644" UP 2"
IRON ROD W/ ID CAP FOUND, "MSC 644" UP 1"
5/8" IRON ROD FOUND, UP 2" (HELD)
1" IRON PIPE FOUND DENT, DOWN 3" LOCATED AT BASE
SPIKE FOUND, DOWN 3"
IRON ROD W/ ID CAP FOUND, "JAMES VERRA" UP 2"
IRON ROD W/ ID CAP FOUND, "JAMES VERRA" FLUSH
N83°35'10"E 60.00'
N02°09'51"W 104.81'
S04°20'59"E 112.07'
S88°39'06"W 94.07'
TRAVELED EDGE OF HUMPHREYS COURT
EDGE OF PAVEMENT (TYP.)
PAVED DRIVEWAY
CONCRETE
STONE & CONCRETE STEPS
DECK
ROOF LINE (TYP.)
1 STORY WOOD FRAME BASEMENT SLAB 19.3 GARAGE THRESHOLD 17.7 EF 25.0 ROOF PEAK 40.2
GARAGE
BARN
SHED
4' CHAIN LINK FENCE
6' WOOD PRIVACY FENCE
4' VINYL PICKET FENCE
24" ELM
24" CHERRY
18" CHERRY
12" CHERRY
30" MAPLE
36" MAPLE
24" MAPLE
22" MAPLE
18" MAPLE
12" MAPLE
18" X 24" TWIN MAPLE
SITE
LOCATION MAP
SCALE: 1" = 200'
NOTES:
1. PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 101 AS LOT 47.
2. OWNERS OF RECORD: ROBERT M. SNOVER REVOCABLE TRUST DARCY E. DAVIDSON, TRUSTEE ROBERT M. SNOVER, TRUSTEE 60 TJ SAMESTER AVENUE PORTSMOUTH, NH 03801 6568/0662 RCRD PLAN # 0092 LOTS 8&10
3. PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0659F, EFFECTIVE JANUARY 29, 2021.
4. EXISTING LOT AREA: 10,005 S.F. 0.2297 ACRES
5. PARCEL IS LOCATED IN GENERAL RESIDENCE B (GRB) AND HISTORIC OVERLAY DISTRICT.
6. DIMENSIONAL REQUIREMENT:
MIN LOT AREA: 5,000 S.F.
FRONTAGE: 80 FEET
SETBACKS: FRONT 5 FEET
SIDE: 10 FEET
REAR 25 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 30%
MINIMUM OPEN SPACE: 25%
7. VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
8. THE PURPOSE OF THIS PLAN IS: SHOW THE RESULTS OF A STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY OF ASSESSOR'S MAP 101 LOT 47 IN THE CITY OF PORTSMOUTH.
9. ABUTTING STRUCTURE LOCATIONS SHOULD BE CONSIDERED APPROXIMATE ONLY.
10. BUILDING DIMENSIONS AND OFFSETS SHOWN ARE TO THE FOUNDATION.
GRAPHIC SCALE
10 0 5 10 20 30
(IN FEET)
1 inch = 10 ft.
1 07/08/2025 ADD UTILITY LOCATIONS & GRADES CSA PAT
0 05/29/2025 ISSUED FOR COMMENT CSA PAT
REV. DATE DESCRIPTION BY CHK
DRAWING ISSUE STATUS
SITE SURVEY
HALEY WARD
ENGINEERING ENVIRONMENTAL I SURVEYING
WWW.HALEYWARD.COM
200 Griffin Road, Unit 14
Portsmouth, NH 03801
603-431-9282
PROJECT
ROBERT M. SNOVER TRUST
59 HUMPHREY'S COURT, PORTSMOUTH, N.H.
TITLE
STANDARD BOUNDARY & TOPOGRAPHIC SURVEY
DATE OCTOBER 2024
SCALE 1" = 10'
DRAWN BY CSA
DESIGNED BY —
CHECKED BY PAT
PROJECT NO. 5810975
FIELD BOOK & PAGE FB 329 PG 45
DRAWING NO. V101
SHEET 1
"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."
PHILLIP A. YETMAN, LLS 1122
7/10/2025
DATE



EASEMENT TABLE

E1	N02°09'51"W	17.49'
E2	N83°36'10"E	28.67'

EASEMENT CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
EC1	44.68'	33.75'	32.95'	S61°38'18"W	43°2241"

PLAN REFERENCES:

1. PROPERTY OF W.G.MARSHALL AND HEIRS OF W.P. BENNETT PORTSMOUTH, N.H., DATED: APRIL 10, 1900, PREPARED BY: L.E. SCRUTON, C.E., RCRD PLAN #0062.
2. PLAN OF LAND PORTSMOUTH, N.H. FOR: EDMUND L. PRICE, SCALE: 1" = 20', DATED: NOVEMBER 1983, PREPARED BY JOHN W. DURGIN ASSOCIATES, INC., RCRD C-12278.
3. SKETCH OF LAND, 55 HUMPHREYS COURT PORTSMOUTH, N.H., FOR: HAROLD WATEHOUSE, SCALE: 1" = 20', DATED: 8/31/88, PREPARED BY JAMES VERRA AND ASSOCIATES, INC., NOT RECORDED.
4. SUBDIVISION OF LAND NEW CASTLE AVE. & NARDY ST., PORTSMOUTH, NEW HAMPSHIRE FOR: EDMUND L. PRICE, SCALE: 1" = 20', DATED: 7-31-89, PREPARED BY: JAMES VERRA & ASSOCIATES, INC., RCRD D-21352.
5. STANDARD BOUNDARY SURVEY, TAX MAP 101 LOT 99, PROPERTY OF ZOE DABOUL, 53 HUMPHREY'S COURT, COUNTY OF ROCKINGHAM, PORTSMOUTH, NEW HAMPSHIRE, SCALE: 1" = 10', DATED: MARCH 5, 2012, PREPARED BY: MSC CIVIL ENGINEERS & LAND SURVEYORS, RCRD D-37165.
6. STANDARD BOUNDARY SURVEY TAX MAP 101-LOT 42, PREPARED FOR STEVE CRAIGE LAND OF BRIAN J. BRONAREK, 10 HUMPHREY'S COURT CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 10', DATED: 4/10/17, PREPARED BY AMBIT ENGINEERING, INC., NOT RECORDED.

APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN DATE

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

10-28-25

JOHN R. CHAGNON, LLS DATE

VARIANCE REQUEST:

- SECTION 10.521 TABLE 10.521 TO PERMIT A PROPOSED LOT WITH 51.80 FEET OF FRONTAGE WHERE 80 FEET IS REQUIRED;
- SECTION 10.521 TABLE 10.521 TO PERMIT A LOT AREA OF 4,869 S.F. AS DETERMINED BY THE CITY OF PORTSMOUTH, WHERE 7,500 S.F. IS REQUIRED

NOTES:

1. PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 101 AS LOT 47.
2. OWNERS OF RECORD:
   ROBERT M. SNOVER REVOCABLE TRUST
   DARCY E. DAVIDSON, TRUSTEE
   ROBERT M. SNOVER, TRUSTEE
   9812 GAMESTER AVENUE
   PORTSMOUTH, NH 03801
   5560/309
   RCRD PLAN #0052 LOTS 9510
3. PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F, EFFECTIVE JANUARY 29, 2021.
4. EXISTING LOT AREA PER PROPERTY TITLE:
   10,005 S.F.
   0.2297 ACRES
   PROPOSED LOT AREAS PER PROPERTY TITLE:
   LOT 1: 5,003 S.F. (4,840 S.F. W/O EASEMENT AREA)
   0.1149 ACRES (0.1111 ACRES W/O EASEMENT AREA)
   LOT 2: 5,002 S.F.
   0.1148 ACRES
5. PARCEL IS LOCATED IN GENERAL RESIDENCE B (GRB) AND HISTORIC OVERLAY DISTRICT.
6. DIMENSIONAL REQUIREMENT:

MIN LOT AREA:		5,000 S.F.
FRONTAGE:		80 FEET
SETBACKS:	FRONT	5 FEET
	SIDE	10 FEET
	REAR	25 FEET
MAXIMUM STRUCTURE HEIGHT:		35 FEET
MAXIMUM BUILDING COVERAGE:		30%
MINIMUM OPEN SPACE:		25%

7. VERTICAL DATUM IS NAVD88, BASIS OF VERTICAL DATUM IS REDUNDANT ATN GNSS OBSERVATIONS.
8. THE PURPOSE OF THIS PLAN IS TO SHOW THE SUBDIVISION OF ASSESSOR'S MAP 101 LOT 47 IN THE CITY OF PORTSMOUTH INTO 2 LOTS.
9. ABUTTING STRUCTURE LOCATIONS SHOULD BE CONSIDERED APPROXIMATE ONLY.

REV.	DATE	DESCRIPTION	BY	CHK.
5	10/28/2025	ZONING INFORMATION, VARIANCE NOTE	CSA	JRC
4	10/9/2025	FRONT SETBACK	CSA	JRC
3	9/29/2025	PROPOSED PROPERTY LINE	CSA	JRC
2	9/24/2025	PROPERTY LINE	CSA	JRC
1	7/22/2025	ISSUED FOR APPROVAL	CSA	JRC
0	05/29/2025	ISSUED FOR COMMENT	SJR	JRC

DRAWING DESCRIPTION: SITE PLANS

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
WWW.HALEYWARD.COM
200 Griffin Road, Unit 14
Portsmouth, NH 03801
603-430-9282

PROJECT: ROBERT M. SNOVER TRUST
53 HUMPHREY'S COURT, PORTSMOUTH, N.H.

TITLE: SUBDIVISION PLAN

DATE:	MAY 2025
SCALE:	1" = 10'
DRAWN BY:	SJR
DESIGNED BY:	SJR/JRC
CHECKED BY:	JRC
PROJECT NO.	5010955
FIELD BOOK & PAGE	FB 539 PG 45

DRAWING NO. C201 REV. 5



Property Information

Property ID	0101-0047-0000
Location	58 HUMPHREYS CT
Owner	SNOVER ROBERT M REV TR

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 09/26/2024

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.



View of Humphry's Court from Marcy Street (East)



View of Street and NW Corner of 58 Humphry's Court from East



View of Paper Street Area of Humphry's Court (North of 58 Humphry's Court)



Photo of Street and NW Corner of 58 Humphry's Court



View of Front / North Elevation of 58 Humphry's Court



View of Easterly Half of 58 Humphry's Court



View of Westerly Half of 58 Humphry's Court



View of Humphry's Court from New Castle Avenue

III. NEW BUSINESS

H. The request of **Ben and Andrea St. Jean, Braden and Robyn Ferrari, Bob and Laura Gunning, Mike and Zoe Daboul, Tim and Kim Sullivan, and Jamie and Amy Baker (Appellants),** for appeal of the administrative decision of a zoning determination pertaining to the side and rear lot lines of the property for a proposed subdivision located at **58 Humphrey's Court** . Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-165)

Planning Department Comments

The abutters of 58 Humphrey's Court are appealing the determination of the Planning and Sustainability Director in defining the rear and side lot lines. Relevant definitions found in Article 15 of the Zoning Ordinance can be found below

Lot line
A property line bounding a lot.

Lot line, rear
A boundary of a lot that is opposite and most distant from the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot line, side
Any boundary of a lot that is not a front lot line or a rear lot line

NARRATIVE IN SUPPORT OF ADMINISTRATIVE APPEAL
RE 58 HUMPHREYS COURT

This administrative appeal is filed on behalf of the following individuals (collectively, the "Appellants"):

Ben & Andrea St. Jean (54 Humphreys Court)
Braden & Robyn Ferrari (44 Humphreys Court)
Bob & Laura Gunning (43 Humphreys Court)
Mike & Zoe Daboul (53 Humphreys Court)
Tim & Kim Sullivan (63 Humphreys Court)
Jamie & Amy Baker (75 Humpreys Court)

The Appellants appeal the October 21, 2025 zoning determination by Peter Britz, Director of Planning and Sustainability, regarding the classification of the side and rear lot lines for the proposed subdivision at 58 Humpreys Court. A copy of that determination letter is attached hereto as Exhibit A.

By way of background, 58 Humphreys Court (the "Property") is a 0.23 acre property in the General Residence B Zoning District and the Historic Overlay District. It contains a single-family home. Robert Snover and Darcy Davidson (collectively, the "Developers") recently purchased the Property, and have proposed to demolish the existing home, subdivide the Property into two lots, and build two new single-family homes. A copy of the proposed subdivision plan is attached hereto as Exhibit B.[1] The Property cannot be lawfully subdivided in compliance with the Portsmouth Zoning Ordinance, due to deficiencies in frontage and lot area. Our understanding is that the Developers intend to seek variances from this Board to allow the creation of substandard house lots.

Following several iterations of the proposed subdivision plan, and several meetings before the Technical Advisory Committee, Mr. Britz issued the October 21 zoning determinations. Mr. Britz first determined that the Property lacks sufficient land area to create two conforming house lots. The Appellants agree with that determination. Second, Mr. Britz made a number of determinations regarding the front, side and rear lot lines on one of proposed lots (Lot 1). Specifically, Mr. Britz concluded:

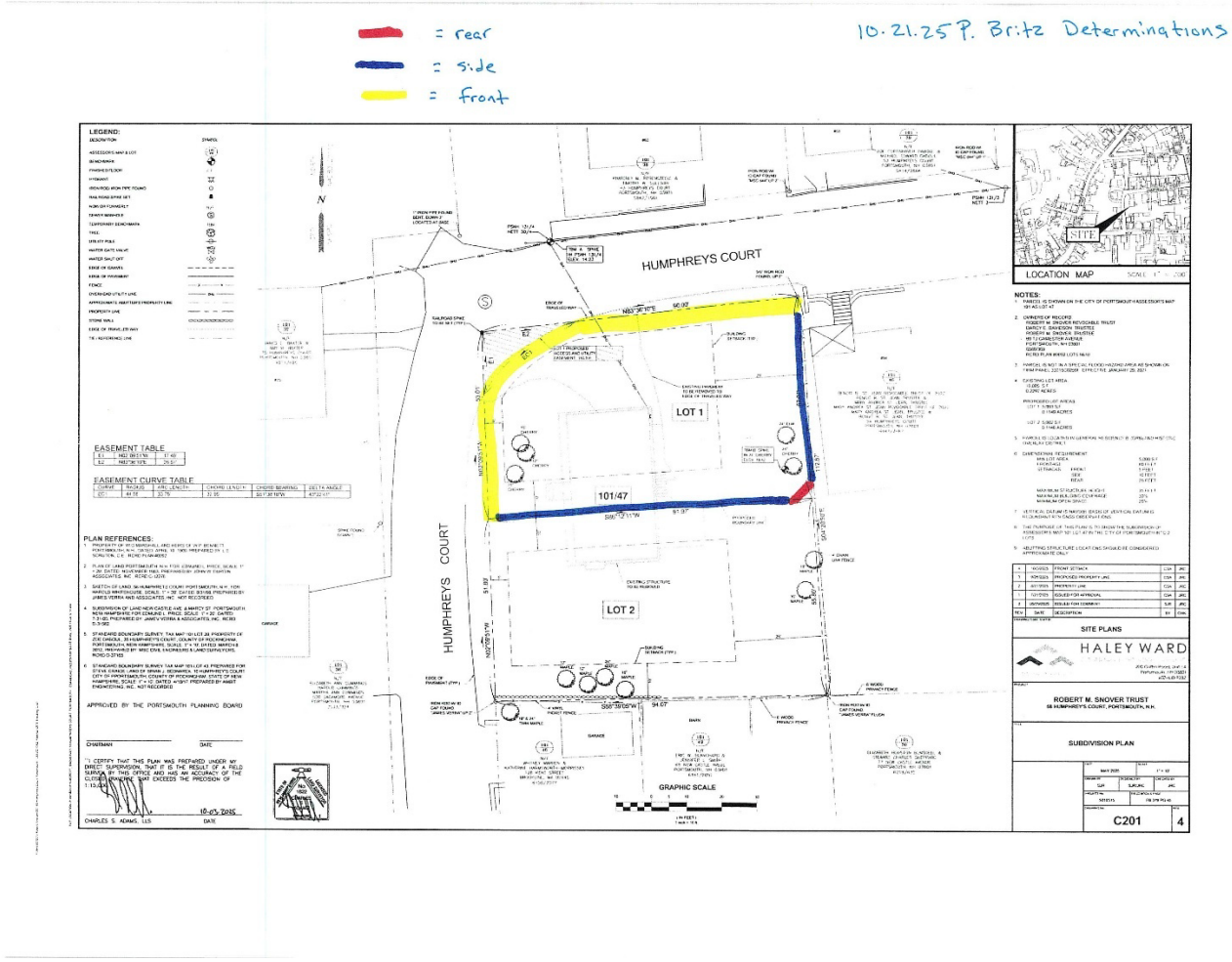
> ***In determining yards on this lot, the front lot line is the area of the public way that has a curve where it comes together off of the two legs of Humphreys Court. It is from the center of that curve that the rear lot is determined. In this case, the rear lot line is the area that comes to a point at the opposite side of the lot from the curve. (The area shown on the Haley Ward plan as EC1). Using the Zoning Ordinance interpretation of rear lot lines in the case of a lot which comes to a point for the rear lot line, a line 10 feet in length drawn from the rear corner shall***

[1] Note that Exhibit B does not reflect Mr. Britz's October 21 zoning determinations with respect to lot line classification. Exhibit B depicts a rear lot line on the easterly boundary of proposed Lot 1, with a corresponding rear yard setback. Mr. Britz's determination reclassifies that boundary as a side lot line.

serve as the rear lot line. All the other portions of the lot (not fronting on Humphreys Ct) are determined to be side yards.

See Oct. 21, 2025 Letter, p. 2-3 (attached as Exhibit B).

Based on Mr. Britz's determinations, the lot lines would be as shown below:



As shown, the front lot line would be the entirety of the frontage along Humphreys Court (highlighted yellow); the rear lot line would be a 10' long segment at the southeast corner of the lot (highlighted red); and the side lot lines would be the easterly and southerly lot lines (highlighted blue).

Respectfully, the Appellants disagree with Mr. Britz's classification of the side and rear lot lines. Article 15 of the Zoning Ordinance provides the following definitions:

"Lot line, rear" is defined as:

A boundary of a lot that is opposite and most distant from the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the

lot, parallel to and at the maximum distance from the front lot line.

"Lot line, front" is defined as:

> ***A boundary of lot that separates the lot from a public place. A corner lot, through lot or a waterfront lot shall have multiple front lot lines. In the case of a corner lot, through lot or a waterfront lot, the principal front yard shall be the line bordering a public place on which the lot has its address as defined by the City.***

"Lot line, side" is defined as:

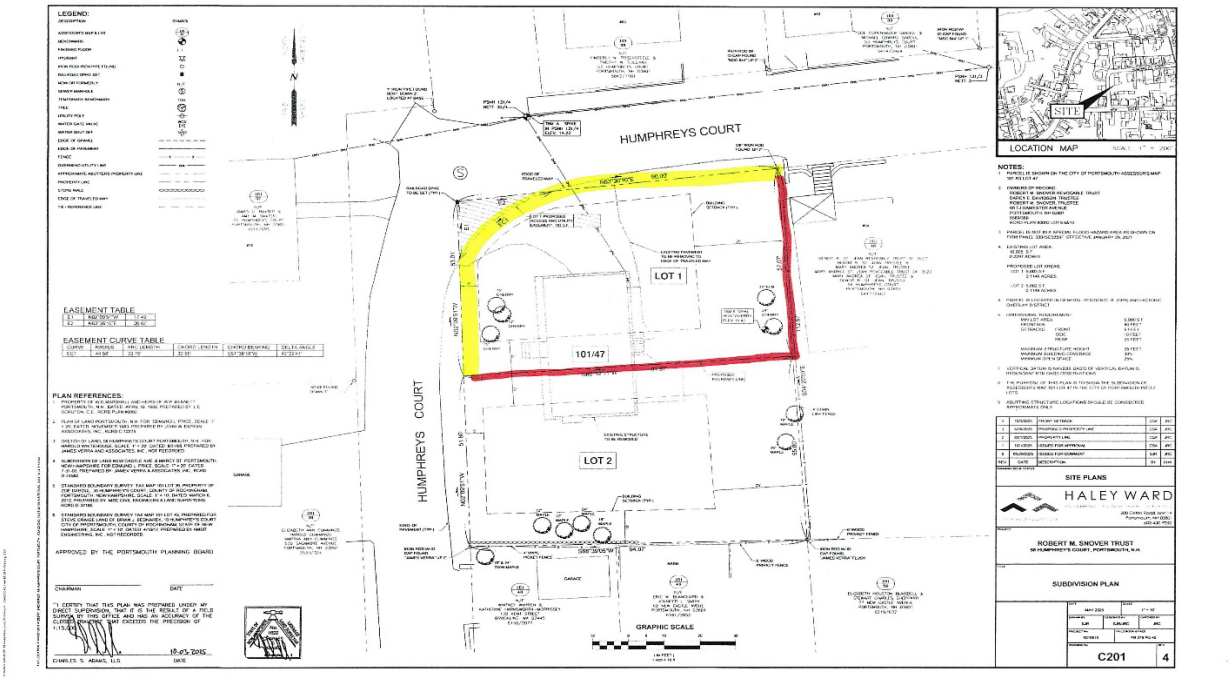
> ***Any boundary of a lot that is not a front lot line or a rear lot line.***

Pursuant to these definitions, the front lot lines are both the westerly and northly boundaries, along both sides of Humphreys Court. The rear lot lines are those which are "opposite and most distant from the front lot line." The easterly boundary of the property is opposite and most distant from the westerly front lot line, and the southerly boundary is opposite and most distant from the northerly front lot line, as shown below:

Appellants' Interpretation

= front

= rear



Mr. Britz incorrectly concludes that the lot forms a point at the rear, and based on that faulty conclusion, creates an artificial 10' rear lot line across the southeasterly corner of the lot. Mr. Britz's interpretation essentially eliminates both rear lot lines, and substitutes a 10' diagonal

segment in their place. The ordinance cannot be rationally interpreted to reach that result. The definitions of lot lines make clear that there are always front and rear lot lines. There may or may not be any side lot lines, as side lot lines are defined to be anything that is not a front or rear lot line.

The definition of "lot line, rear" does include a provision to impose an artificial 10' rear lot line where a lot forms a point at the rear, or where the rear lot line is less than 10' long. However, this provision is designed to create a rear lot line where none otherwise exists, or where it is so short as to not create a meaningful rear yard. It would come into play, for example, with a triangular-shaped lot, like the one below:

Figure 1

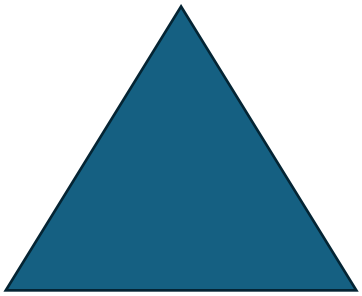
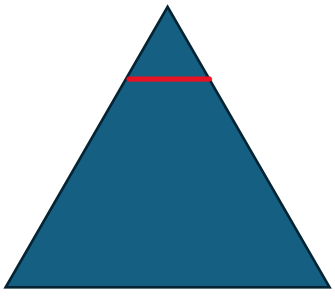


Figure 2



In Figure 1 above, the lot forms a point in the rear, resulting in no rear lot line. In that case, the ordinance would impose the artificial 10' rear lot, as shown in Figure 2. The purpose of that provision is to impose a 10' minimum rear lot line length, to ensure that at least some minimal rear yard is provided on every lot. Mr. Britz's interpretation turns that purpose on its head, and eliminates what would otherwise be two rear lot lines and corresponding rear yards, to create a small diagonal rear lot line, and rear yard that serves no functional purpose.

Critically, in follow-up communications, Mr. Britz acknowledged that if the corner of Humphreys Court were the intersection of two streets, rather than the continuation of one, either the southerly or easterly boundary would be a rear lot line, and he would not impose the artificial 10' diagonal line at the corner.[2] This interpretation illustrates the flaws in the October 21 determination letter. If the east/west portion of Humphreys Court had a different street name than the north/south portion, then Mr. Britz would recognize one of the rear boundaries as a rear lot line, with a corresponding rear yard setback from it. But because both segments of the street have the same name, no rear yard setback is required along any of the existing boundaries.

The classification of the rear and side lots lines is significant because a rear lot line requires a 25' setback, but a side lot line only requires a 10' setback. See Zoning Ordinance §10.521. When the easterly and southerly boundaries of proposed Lot 1 are properly classified as

[2] The Appellants also respectfully disagree with Mr. Britz's conclusion in that hypothetical scenario that there would be only 1 rear lot line, as the Zoning Ordinance clearly defines rear lot lines to be opposite of front lot lines, and therefore there would still be two rear lot lines.

rear lot lines, and the corresponding 25' rear yard setbacks are applied to each, the remaining buildable area is so small that the lot is likely unbuildable. This further illustrates that the Developers are attempting to fit too much onto this existing .23 acre single-family house lot.

For these reasons, we respectfully request that the ZBA reverse Mr. Britz's October 21, 2025 determination, and rule that both the southerly and easterly boundaries of proposed Lot 1 are rear lot lines.

#5684834_1

Exhibit A

CITY OF PORTSMOUTH
Planning and Sustainability Department
1 Junkins Avenue
Portsmouth, New Hampshire
03801
(603) 610-7216

Rober Snover and Darcy Davidson
60 TJ Gamester Avenue
Portsmouth, NH 03801

October 21, 2025

Dear Mr. Snover:

This letter is to serve as a follow up to our meeting on September 23 where we discussed the Planning & Sustainability Department's interpretation of the zoning on your property at 58 Humphrey's Court. You are proposing to subdivide a single property known as Map 101 Lot 47 into two parcels. Staff's interpretation of the zoning for this lot determines that a variance is required to allow the subdivision in order to create two buildable lots.

This parcel's frontage wraps around the 90 degree turn in Humphreys Ct. effectively creating one continuous front yard. At the point of the 90 degree turn the City street overlaps on the parcel creating a curve along the front lot line and an area of City street overlapping with a portion of what your survey has indicated as the lot area. The area of street amounts to 163 square feet, the curved edge of which borders a public place or City street and is not part of the Lot area for this parcel. Simply, this area is not included in the overall lot area because it is not part of the useable lot for this parcel as defined by the zoning ordinance where a front lot line is defined as:

> *Lot Line, front*
> *A boundary of lot that separates the lot from a public place. A corner lot, through lot or a waterfront lot shall have multiple front lot lines. In the case of a corner lot, through lot or a waterfront lot, the principal front yard shall be the line bordering a public place on which the lot has its address as defined by the City*

The dimensions of the entire lot is shown on a Haley Ward Subdivision Plan from 10/3/2025 as being 10,005 square feet with an area of travelled way (effectively City street) being 163 square feet. It is staff's determination that this 163 square foot area cannot be counted as lot area because it is in the street outside of the front lot line. The lot area for Map 101 Lot 47 is determined to be 10,005 square feet minus 163 square feet of public way or 9,842 square feet as shown on the Haley Ward plan. Therefore, there is no way to subdivide this parcel with two conforming lots having a required lot area of 5,000 square feet or greater.

In determining yards on this lot, the front lot line is the area of the public way that has a curve where it comes together off of the two legs of Humphreys Ct. It is from the center of that curve that the rear lot line is determined. In this case, the rear lot line is the area that comes to a point at the opposite side of the lot from the curve. (The area shown on the Haley Ward plan as EC1). Using the Zoning Ordinance interpretation of rear lot lines in the case of a lot which comes to a point for the rear lot line, a line 10 feet

in length drawn from the rear corner shall serve as the rear lot line. All the other portions of the lot (not fronting on Humphreys Ct) are determined to be side yards.

If you have questions or would like to discuss this matter further, please not hesitate to contact me.

Sincerely,

Peter Britz,
Director Planning and Sustainability

Cc: Derek Durbin
Peter Stith
Trevor McCourt

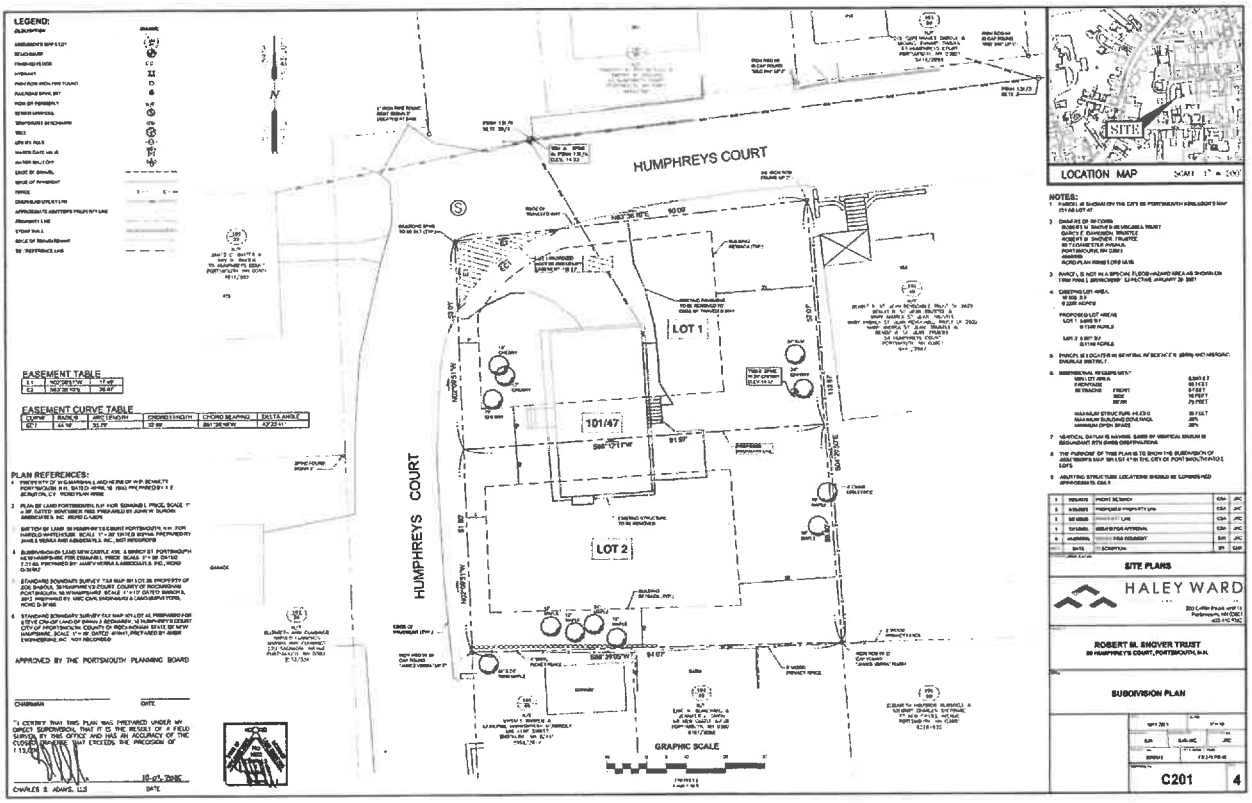
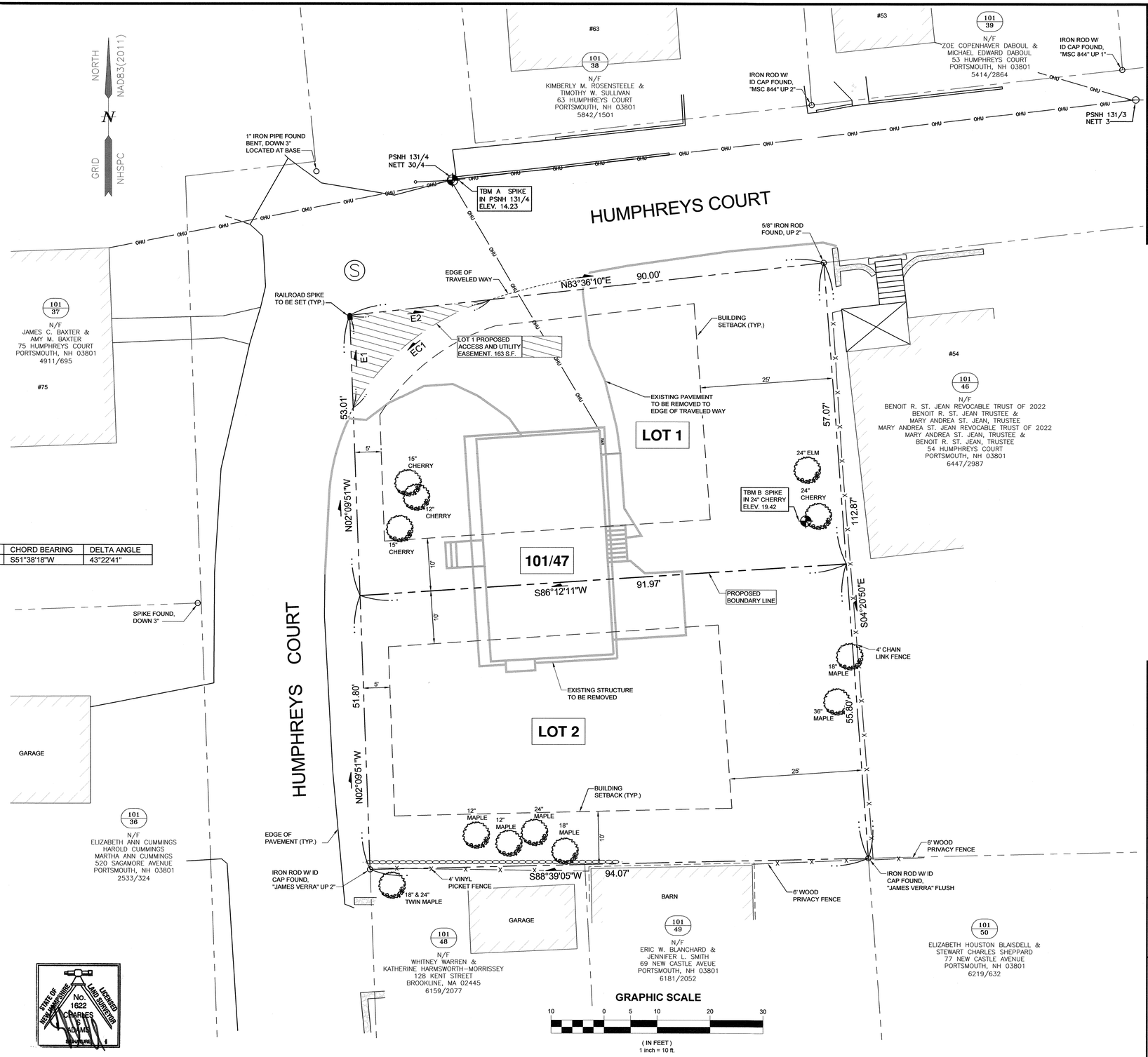
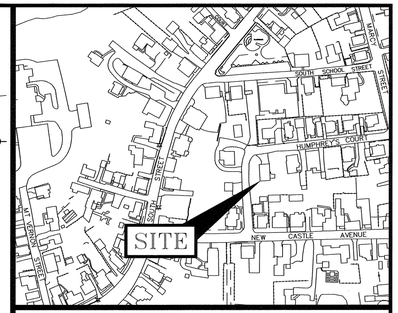


Exhibit B

LEGEND:

DESCRIPTION	SYMBOL
ASSESSOR'S MAP & LOT	101/39
BENCHMARK	
FINISHED FLOOR	F.F.
HYDRANT	
IRON ROD/ IRON PIPE FOUND	
RAILROAD SPIKE SET	
NOW OR FORMERLY	N/F
SEWER MANHOLE	S
TEMPORARY BENCHMARK	TBM
TREE	
UTILITY POLE	
WATER GATE VALVE	WGV
WATER SHUT OFF	
EDGE OF GRAVEL	
EDGE OF PAVEMENT	
FENCE	X X
OVERHEAD UTILITY LINE	OHU
APPROXIMATE ABUTTER'S PROPERTY LINE	
PROPERTY LINE	
STONE WALL	
EDGE OF TRAVELED WAY	
TIE / REFERENCE LINE	





LOCATION MAP SCALE: 1" = 200'

EASEMENT TABLE

E1	N02°09'51"W	17.49'
E2	N83°36'10"E	26.67'

EASEMENT CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
EC1	44.58'	33.75'	32.95'	S51°38'18"W	43°22'41"

PLAN REFERENCES:

1. PROPERTY OF W.G.MARSHALL AND HEIRS OF W.P. BENNETT PORTSMOUTH, N.H., DATED: APRIL 10, 1900, PREPARED BY: L.E. SCRUTON, C.E., RCRD PLAN #0092.
2. PLAN OF LAND PORTSMOUTH, N.H. FOR: EDMUND L. PRICE, SCALE: 1" = 20', DATED: NOVEMBER 1983, PREPARED BY JOHN W. DURGIN ASSOCIATES, INC., RCRD C-12278.
3. SKETCH OF LAND, 58 HUMPHRETS COURT PORTSMOUTH, N.H., FOR HAROLD WHITEHOUSE, SCALE: 1" = 20', DATED: 8/31/98, PREPARED BY JAMES VERRA AND ASSOCIATES, INC., NOT RECORDED.
4. SUBDIVISION OF LAND NEW CASTLE AVE. & MARCY ST. PORTSMOUTH, NEW HAMPSHIRE FOR EDMUND L. PRICE, SCALE: 1" = 20', DATED: 7-31-03, PREPARED BY: JAMEV VERRA & ASSOCIATES, INC., RCRD D-31582.
5. STANDARD BOUNDARY SURVEY, TAX MAP 101 LOT 39, PROPERTY OF ZOE DABOUL, 35 HUMPHREY'S COURT, COUNTY OF ROCKINGHAM, PORTSMOUTH, NEW HAMPSHIRE, SCALE: 1" = 10', DATED: MARCH 8, 2012, PREPARED BY: MSC CIVIL ENGINEERS & LAND SURVEYORS, RCRD D-37165.
6. STANDARD BOUNDARY SURVEY TAX MAP 101-LOT 43, PREPARED FOR STEVE CRAIGE LAND OF BRIAN J. BEDNAREK, 10 HUMPHREY'S COURT CITY OF PPORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 10', DATED: 4/10/17, PREPARED BY AMBIT ENGINEERING, INC., NOT RECORDED.

APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN DATE

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

10-03-2025

CHARLES S. ADAMS, LLS DATE

STATE OF NEW HAMPSHIRE No. 1622 CHARLES S. ADAMS LICENSED LAND SURVEYOR

NOTES:

1. PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 101 AS LOT 47.
2. OWNERS OF RECORD:
   ROBERT M. SNOVER REVOCABLE TRUST
   DARCY E. DAVIDSON, TRUSTEE
   ROBERT M. SNOVER, TRUSTEE
   60 TJ GAMESTER AVENUE
   PORTSMOUTH, NH 03801
   6589/369
   RCRD PLAN #0092 LOTS 9&10
3. PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F, EFFECTIVE JANUARY 29, 2021.
4. EXISTING LOT AREA:
   10,005 S.F.
   0.2297 ACRES

   PROPOSED LOT AREAS:
   LOT 1: 5,003 S.F.
   0.1149 ACRES

   LOT 2: 5,002 S.F.
   0.1148 ACRES
5. PARCEL IS LOCATED IN GENERAL RESIDENCE B (GRB) AND HISTORIC OVERLAY DISTRICT.
6. DIMENSIONAL REQUIREMENT:

MIN LOT AREA:		5,000 S.F.
FRONTAGE:		80 FEET
SETBACKS:	FRONT	5 FEET
	SIDE	10 FEET
	REAR	25 FEET
MAXIMUM STRUCTURE HEIGHT:		35 FEET
MAXIMUM BUILDING COVERAGE:		30%
MINIMUM OPEN SPACE:		25%

7. VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
8. THE PURPOSE OF THIS PLAN IS TO SHOW THE SUBDIVISION OF ASSESSOR'S MAP 101 LOT 47 IN THE CITY OF PORTSMOUTH INTO 2 LOTS.
9. ABUTTING STRUCTURE LOCATIONS SHOULD BE CONSIDERED APPROXIMATE ONLY.

REV.	DATE	DESCRIPTION	BY	CHK.
4	10/3/2025	FRONT SETBACK	CSA	JRC
3	9/26/2025	PROPOSED PROPERTY LINE	CSA	JRC
2	8/21/2025	PROPERTY LINE	CSA	JRC
1	7/21/2025	ISSUED FOR APPROVAL	CSA	JRC
0	05/29/2025	ISSUED FOR COMMENT	SJR	JRC

DRAWING ISSUE STATUS

SITE PLANS

HALEY WARD
ENGINEERING | ENVIRONMENTAL | SURVEYING
WWW.HALEYWARD.COM
200 Griffin Road, Unit 14
Portsmouth, NH 03801
603-430-9282

PROJECT

ROBERT M. SNOVER TRUST
58 HUMPHREY'S COURT, PORTSMOUTH, N.H.

TITLE

SUBDIVISION PLAN

DATE: MAY 2025	SCALE: 1" = 10'
DRAWN BY: SJR	DESIGNED BY: SJR/JRC
CHECKED BY: JRC	
PROJECT No.: 5010515	FIELD BOOK & PAGE: FB 379 PG 45
DRAWING No.: C201	REV.: 4

FILE LOCATION: P:\NH\5010515-ROBERT_SNOVER\ROOT-58 HUMPHREY'S COURT, PORTSMOUTH - CSA\02-CAD_FILES\5010515-SITE.DWG 2025.10.03, 9:14 AM

P:\NH\5010515-Robert_Snover\001-58 Humphrey Court, Portsmouth - CSA\02-CAD_Files\5010515-Site.dwg, C201

III. NEW BUSINESS

I. The request of **Michael R and Isaac M. Roylos (Owners) and Christopher Cloutier (Applicant)**, for property located at **25 Sims Avenue** whereas relief is needed to create a buildable lot which requires the following: 1) Variance from section 10.521 to allow a) 5,000 square feet of lot area where 15,000 is required, b) 5,000 square feet of lot area per dwelling unit where 15,000 is required, and c) 50 feet of frontage where 100 feet are required. Said property is located on Assessor Map 233 Lot 71 and lies within the Single Residence B (SRB) District. (LU-25-169)

Existing & Proposed Conditions

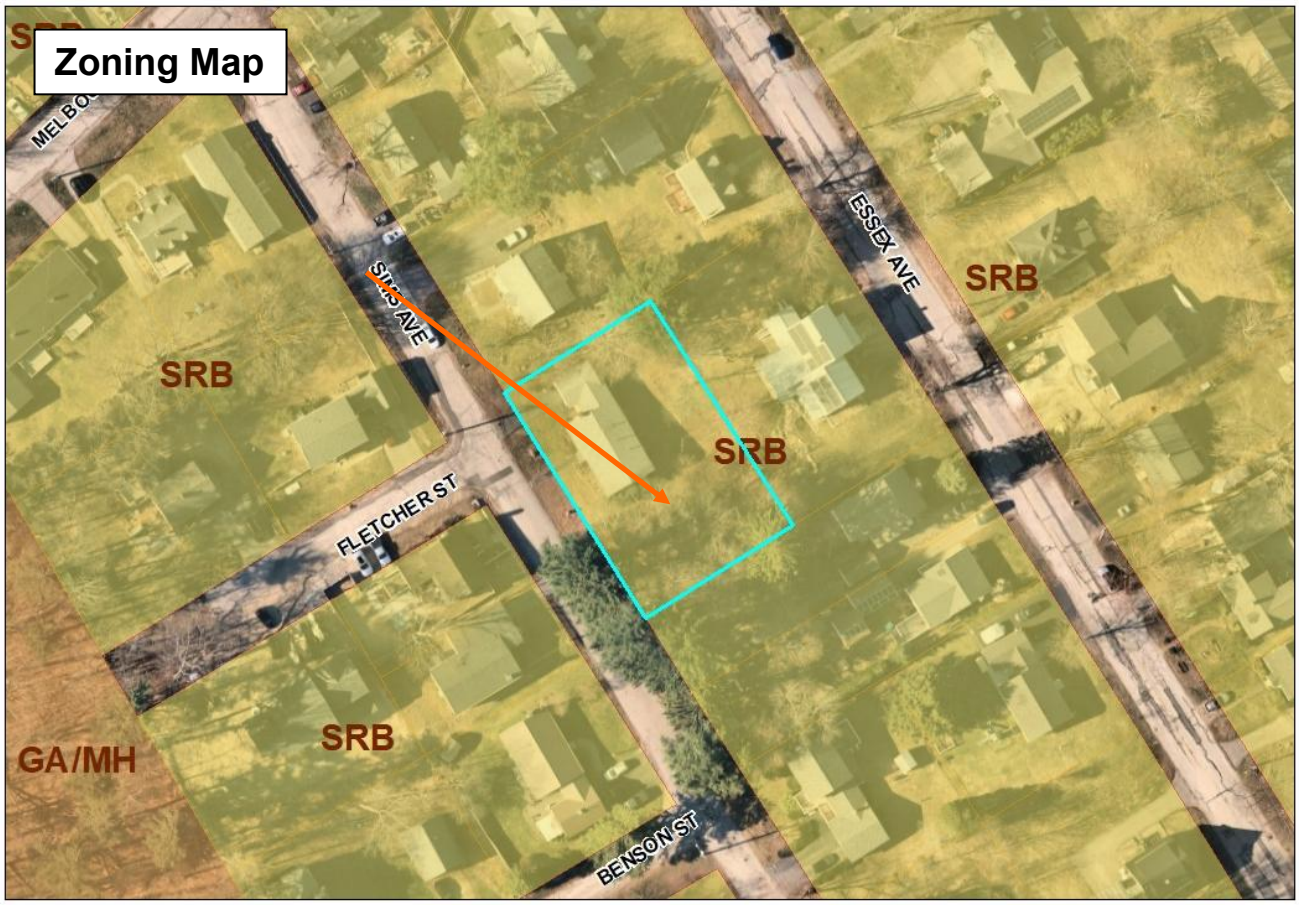
	Existing	Proposed	Permitted / Required	
Land Use:	Vacant Lot	Buildable Lot	Primarily residential	
Lot area (sq. ft.):	5,000	5,000	15,000	min
Lot area per dwelling unit (sq. ft.)	5,000	5,000	15,000	min.
Frontage (ft.)	50	50	100	min.
Depth	100	100	100	min.
		Variance request(s) shown in red.		

Other Permits/Approvals Required

- Building Permit

Neighborhood Context





Previous Board of Adjustment Actions

No previous BOA history found

Planning Department Comments

The applicant is requesting relief to create a buildable lot. At this time, the applicant has not proposed plans for a structure. Should a structure be proposed, it will need to conform to the dimensional requirements outlined in the Zoning Ordinance. Please note that the aerial imagery and the zoning map parcels do not yet reflect the restoration of the merged lots.

Variance Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a) The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR
   Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC
ATTORNEYS AT LAW
127 Parrott Avenue | Portsmouth, NH, 03801
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

November 19, 2025

HAND DELIVERED

Stefanie Casella, Principal Planner
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Owners: Michael & Isaac Roylos
Applicant: Chris Cloutier
Property: 25 Sims Avenue
Tax Map 233, Lot 71[1]
Single Residence B District

Dear Ms. Casella & Zoning Board Members:

On behalf of the Roylos Family and Chris Cloutier enclosed please find the following in support of a request for zoning relief:

- See Viewpoint Land Use Application uploaded today.
- Owner Authorization.
- 11/19/2025 – Memorandum and exhibits in support of Zoning Relief

We look forward to presenting this application to the Planning Board at its December 16, 2025 meeting.

Very truly yours,

R. Timothy Phoenix
Monica F. Kieser

Encl.

cc: Chris Cloutier
Emmanuel Engineering/JVA

[1] Note that the lot at issue, known as Lot 44, was recently unmerged and does not yet have its own lot number.

DANIEL C. HOEFLE | ALEC L. MCEACHERN | PETER V. DOYLE | STEPHEN H. ROBERTS 2007-2023
R. TIMOTHY PHOENIX | KEVIN M. BAUM | MONICA F. KIESER | OF COUNSEL:
LAWRENCE B. GORMLEY | JACOB J.B. MARVELLEY | STEPHANIE J. JOHNSON | SAMUEL R. REID
R. PETER TAYLOR | GREGORY D. ROBBINS | KAREN W. OLIVER | JOHN AHLGREN

dotloop signature verification: dtlp.us/cmNU-xGC6-a8jB

OWNER'S AUTHORIZATION

I, Michael R. Roylos and Isaac M. Roylos, Owners/Applicants of Sims Avenue, Tax Map 233/Lot 71, hereby authorize law firm Hoefle, Phoenix, Gormley & Roberts, PLLC to represent us before any and all City of Portsmouth Representatives, Boards and Commissions for permitting the project.

Respectfully submitted,

Date: Michael Roylos dotloop verified 11/16/25 9:33 AM EST N99M-BNZN-MTK1-0NLR

Michael R. Roylos

Date: Isaac Roylos dotloop verified 11/14/25 7:41 PM EST B1WX-SFHN-FMI1-OZG0

Isaac M. Roylos

dotloop signature verification: dtlp.us/BhRu-0Me5-4orR

APPLICANT AUTHORIZATION

I, Christopher Cloutier, Applicant of Sims Avenue, Tax Map 233/Lot 71, hereby authorize law firm Hoefle, Phoenix, Gormley & Roberts, PLLC to represent me before any and all Portsmouth Representatives, Boards and Commissions for permitting the project.

Respectfully submitted,

Chris Cloutier

dotloop verified
11/17/25 12:24 PM EST
RMER-EUYL-6PJ0-DCFW

Christopher Cloutier

MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment ("ZBA")
FROM: R. Timothy Phoenix, Esquire
Monica F. Kieser, Esquire
DATE: November 19, 2025
RE: Owners: Michael & Isaac Roylos
Applicant: Chris Cloutier
Property: 25 Sims Avenue
Tax Map 233, Lot 71[1]
Single Residence B District

Dear Chair Eldridge and Members of the Zoning Board of Adjustment ("ZBA"):

On behalf of Owner Michael & Isaac Roylos and Applicant Chris Cloutier ("Cloutier"), we are pleased to submit this Memorandum and exhibits in support of a requested variance from the Portsmouth Zoning Ordinance ("PZO" or "Ordinance").

I. EXHIBITS

A. Existing Conditions Plan – Ambit Engineering,
B. Site Photographs.
   - Satellite View
C. Deed.
D. Rockingham County Registry of Deeds, Plan 0241.
E. City Council Decision to Unmerge.
F. Lot 44 in Context.
G. Tax Map 233.

II. PROPERTY

Lot 44 is the historic designation for the southeasterly third of 25 Sims Avenue. **(Exhibits A, C, and D)**. Lot 44 is a 5,003 s.f. undeveloped parcel with 50.03' feet of frontage located in the Single Residence B District. **(Exhibit A, B)**. Lot 44 was acquired by the Roylos family as a single lot in 1965. **(Exhibit C, D)**. It was subsequently involuntarily merged by the City of Portsmouth with Lots 42 and 43, the lot upon which the Roylos home was constructed. Upon request of the Roylos Family and in consultation with the Planning Board, the City Council restored Lot 44 to its previously unmerged status as a nonconforming lot. **(Exhibit E)**. Cloutier plans to construct a home within the building envelope. Cloutier consulted with City

[1] Note the lot at issue, known as Lot 44, was recently unmerged and does not yet have its own Lot number.

Staff, who opined that relief is required to establish a home on a lot with insufficient area and frontage.

III. RELIEF REQUIRED

Variance Section/Requirement	Existing	Proposed
PZO §10.520/Table §10.521: Dimensional Standards		
15,500 s.f. Lot area	5,000 s.f.	5,000 s.f.
15,000 s.f. Lot area/dwelling unit	5,000 s.f./dwelling	5,000 s.f./dwelling
100 ft. Frontage	50’	50’

IV. ADDITIONAL PERMITS REQUIRED

- Driveway Permit
- Building Permit

V. VARIANCE REQUIREMENTS

1. **The variances will not be contrary to the public interest.**
2. **The spirit of the ordinance is observed.**

The first step in the ZBA’s analysis is to determine whether granting a variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance “would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives.” Id. “Mere conflict with the zoning ordinance is not enough.” *Id.*

The purpose of the Portsmouth Zoning Ordinance as set forth in PZO §10.121 is “to promote the health, safety and the general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan… [by] regulating”:

1. The use of land, buildings and structures for business, industrial, residential and other purposes – The proposal requests variance for lot size/lot size per dwelling unit for a single-family home on a 5000 s.f. lot where 15000 s.f. is required. The

lot, size, which is consistent with many other lots in the area (see **Exhibit F**) is a prior nonconforming condition that cannot be changed.

2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – The proposal is to build a home within the existing building envelope.
3. The design of facilities for vehicular access, circulation, parking and loading The lot can accommodate off-street parking for a residential use.
4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding – Stormwater management will be evaluated in conjunction with the issuance of a building permit, which requires stormwater be managed on-site. Lighting noise and vibration will be no different than any other single-family home in the neighborhood.
5. The preservation and enhancement of the visual environment – The establishment of a residential use in a residential zone will not detract from the visual environment.
6. The preservation of historic districts, and buildings and structures of historic or architectural interest – The Property is not in the Historic District.
7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – There are not wetlands on site and Lot 44 is not within the wetland buffer.

Based upon the foregoing, the variances do not "in a marked degree conflict with the ordinance such that they violate the ordinance's basic zoning objectives." Malachy Glen, supra, which also held:

> One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality…. Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

The Property is located in a thickly settled area of the City with many lots that are nonconforming size with insufficient frontage. **(Exhibit F)**. Accordingly, variances for lot size which cannot be met and is consistent with other lots in the neighborhood will neither "alter the essential character of the locality," which is significantly single-family nor "threaten the public health, safety or welfare."

3. Substantial justice is done by granting the variances.

If "there is no benefit to the public that would outweigh the hardship to the applicant" this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011). That is, "any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice." Malachy Glen, supra at 109.

The Roylos family is constitutionally entitled to the use of the lot as they see fit, including selling the lot, subject to the effect of establishing a permitted use on an undersized lot. "The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions." N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that "no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people." Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978).

"Property" in the constitutional sense has been interpreted to mean not the tangible property itself, but rather the right to possess, use, enjoy **and dispose** of it. Burrows v. City of Keene, 121 N.H. 590, 597 (1981). (emphasis added). The Supreme Court has held that zoning ordinances must be reasonable, not arbitrary and must rest upon some ground of difference having fair and substantial relation to the object of the regulation. Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727, 731 (2001); Chesterfield at 69.

A municipality's ordinance must reflect the current character of the neighborhood, See Belanger v. City of Nashua, 121 N.H. 389, 393 (1981) (upholding reversal of use variance denial where current character of neighborhood had evolved since its original classification as single-family residential). Here, the vast majority of conforming lot are nonconforming as to lot size while many also fail to comply with frontage requirements. **(Exhibit F).**

Granting the requested variances creates opportunity for sorely needed single-family homes. There is no harm to any neighbor or the general public from granting the variances to establish a permitted residential use and certainly no harm to the public who benefits from an increase in housing stock. Conversely, Roylos and Cloutier will be greatly harmed by denial as Roylos will be deprived of their constitutional right to dispose of their property and Cloutier will lose the opportunity to reasonably develop the Property, requesting only relief for conditions (lot size and frontage) that cannot under any circumstances be met. Accordingly, there is no benefit to the public from granting the variance that outweighs the harm to the owner from denial.

4. Granting the variance will not diminish surrounding property values.

The City Council recognized that the merger of Lot 44 was done without action or consent by the Owner and had to be remedied by restoration of the lot to its pre-merger status. The establishment of a permitted residential use within the building envelope on a nonconforming lot of record, among other lots similarly situated and developed, will not diminish surrounding property values.

5. Denial of the variances results in an unnecessary hardship.

a. Special conditions distinguish the property/project from others in the area.

The Property, having been set out before zoning, is small and narrow. It was further merged for decades without the owner's consent and has just been restored. Because there is no way to make the lot, thus the Project comply with the SRB lot size, frontage, and lot size per dwelling unit requirements, special conditions exist.

b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

Lot area and density limits, exist in order to: prevent overburdening/overcrowding of the land; permit areas for stormwater management; and allow for adequate light, air, and sightlines. The establishment of a permitted single-family home on a lot existing for over a century, within its building envelope, provides sorely needed single-family housing. Accordingly, there is no fair and substantial relationship between the general public purposes of the Ordinance, the lot size and frontage are consistent with other lot in the area, and compliance is impossible.

c. The proposed use is reasonable.

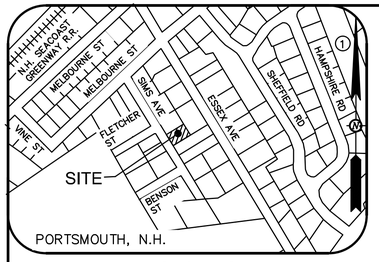
If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). Residential uses are permitted in the SRB Zone. We note also that the New Hampshire Supreme Court case of Walker v. City of Manchester, 107 NH 382 (1966) held that a hardship may be found where similar nonconforming uses exist within the neighborhood and the proposed use will have no adverse effect upon the neighborhood. We note that while Walker does not limit or distinguish its analysis based on the underlying cause of the surrounding nonconformity (pre-existing, result of variances, or a planned unit development), a number of nonconforming lots are as they existed on the 1918 Plan. **(Compare Exhibit D to Exhibit G)**. Accordingly, the proposed use is reasonable and denial would create an unnecessary hardship for Roylos and Cloutier.

VI. CONCLUSION

For all the reasons stated, The Roylos Family and Chris Cloutier respectfully request that the Portsmouth Zoning Board of Adjustment the requested relief. We look forward to presenting this application at the December 16, 2025 ZBA Meeting.

Respectfully submitted,
Chris Cloutier

By: _____
R. Timothy Phoenix, Esquire
Monica F. Kieser, E



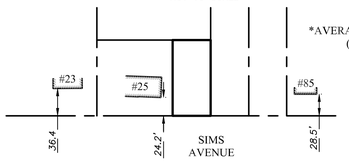
LOCUS
(N.T.S.)

LEGEND

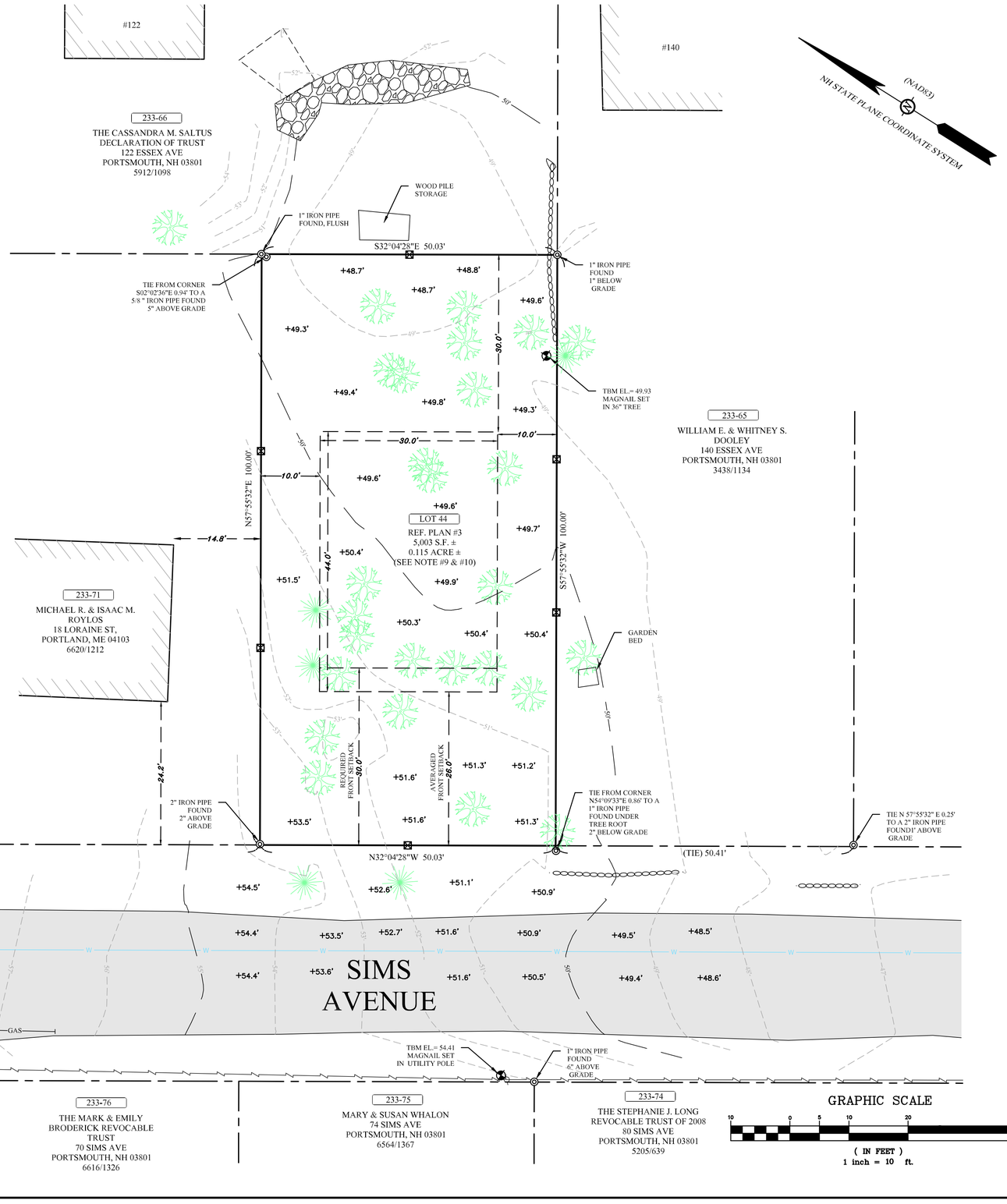
- STONE AREA
- PAVEMENT AREA
- CONTOUR MINOR LINE
- CONTOUR MAJOR LINE
- BOUNDARY LINE
- OVERHEAD WIRE LINE
- BOUNDARY ABUTTERS LINE
- SETBACK LINE
- W — 6" DI WATER LINE
- G — GAS LINE
- CONIFEROUS TREE
- DECIDUOUS TREE
- UTILITY POLE
- BENCHMARK
- IRON PIPE FOUND
- WOODEN STAKE SET
- +53.5' SPOT GRADE ELEVATION

DETAIL "A" FRONT SETBACK CALCULATIONS

NOT TO SCALE



*AVERAGE FRONT SETBACK =
(24.2+28.5)/2 = 26'



GRAPHIC SCALE
10 0 5 10 20 40
(IN FEET)
1 inch = 10 ft.

NOTES:

1. OWNER OF RECORD: MICHAEL R. ROYLOS AND ISAAC M. ROYLOS
   ADDRESS: 18 LORAINE ST, PORTLAND, MAINE 04103
   DEED REFERENCE: BK: 6620 PG: 1214
   TAX SHEET / LOT: 233 / 71
2. ZONED: SRB - SINGLE RESIDENCE B.

   MIN. LOT AREA: 15,000 S.F. — FRONT YARD SETBACK: 30' *
   CONTINUOUS STREET FRONTAGE: 100' — SIDE & REAR YARD SETBACK: 10' & 30'
   DEPTH: 100'
   BUILDING COVERAGE: 20%
   MIN OPEN SPACE: 40%
   HEIGHT: 35'
   *AVERAGE FRONT YARD SETBACK: 26' SEE DETAIL "A" FOR CALCULATIONS
3. THE INTENT OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS OF THE SUBJECT PARCELS AND THE IMPROVEMENTS THEREON.
4. OCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES ETC.) AND INFORMATION COMPILED FROM PLANS OF RECORD, AND PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG-SAFE @ 1-888-DIG-SAFE.
5. ZONTAL DATUM: NAD83, VERTICAL DATUM: NAVD88. ESTABLISHED BY SURVEY GRADE GPS OBSERVATIONS. UNITS: US SURVEY FOOT.
6. PLAN IS BASED UPON A FIELD SURVEY COMPLETED IN JULY OF 2023 WITH TRIMBLE S5 ROBOTIC TOTAL STATION, CARLSON BRX7 RTK GPS UNITS, PANASONIC FZ-M1/TRIMBLE TSC7 DATA COLLECTORS.
7. PARCEL SHOWN HEREON LIES WITHIN ZONE X (AREA OF MINIMAL FLOOD HAZARD) AS IDENTIFIED ON FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, MAP NUMBER 33015C0259F EFFECTIVE DATE 1/29/2021 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
8. CONTRACTOR TO VERIFY SITE BENCHMARKS BY LEVELING BETWEEN 2 BENCHMARKS PRIOR TO THE ESTABLISHMENT OF ANY GRADES OR ELEVATIONS. DISCREPANCIES ARE TO BE REPORTED TO JAMES VERRA AND ASSOCIATES, INC.
9. LOT # 44 AS SHOWN ON PLAN RCRD C-15324 WAS SHOWN ON PORTSMOUTH, N.H. TAX MAP AS PART OF TAX MAP 233 LOT 71. IT IS SHOWN ON OTHER GIS MAPS AS #35 SIMS AVE.
10. LOTS #42, #43 AND #44, AS SHOWN PLAN RCRD C-15324, WERE INVOLUNTARILY MERGED BY THE CITY OF PORTSMOUTH. LOT #44 WAS UNMERGED FROM LOTS #42 & #43 BY VOTE OF PORTSMOUTH CITY COUNCIL ON APRIL 7,2025, PURSUANT TO NH RSA 674:39. SEE ITEM #12 IN PORTSMOUTH CITY MEMORANDUM ENTITLED "ACTIONS TAKEN AT PORTSMOUTH CITY COUNCIL MEETING HELD ON APRIL 7, 2025." AS A RESULT OF SAID UNMERGED, LOTS #42 & #43 REMAIN MERGED AS A SINGLE LOT AND LOT #44 IS A SEPARATE AND SINGLE LOT.

REFERENCE PLAN:

1. "SUBDIVISION PLAN FOR RUTH P. MERCER, PORTSMOUTH, N.H." DATED APRIL 18, 1986. PREPARED BY EMERY ENGINEERING. R.C.R.D. C-15324.
2. "PLAN OF LAND OF DONALD R. & LEE D. PEARL, SIMS AVENUE, PORTSMOUTH, N.H." DATED JANUARY 1979. PREPARED BY MOULTON ENGINEERING CO. R.C.R.D. C-8574.
3. "DANIELS PARK, PORTSMOUTH, N.H. BELMONT REALTY CO. PROVIDENCE R.I." DATED JUNE 1918. PREPARED BY C.A. THAYER, ENGINEER. ON THIS FILE IN THIS OFFICE, JWD FILE #441, PLAN #702. R.C.R.D. BK 1 PG 166 PLAN #58
4. "PLAN OF LOT #58 DANIELS PARK, PORTSMOUTH, N.H." DATED AUGUST 1973. PREPARED BY JOHN W. DURGIN C.E. ON THIS FILE IN THIS OFFICE, JWD FILE #441, PLAN #L-493.
5. "LOT LINE REVISION, PORTSMOUTH, N.H. FOR ALFRED & IRENE BOUTOTE." DATED JULY 1979. PREPARED BY JOHN W. DURGIN ASSOCIATES, INC. ON THIS FILE IN THIS OFFICE, JWD FILE #441, PLAN #4655. R.C.R.D. C-8851.
6. "PLAN OF LOT, PORTSMOUTH, N.H. FOR GEO. B & MARIE R. UNDERWOOD." DATED OCTOBER 1972 & REVISED AUGUST 1977. PREPARED BY JOHN W. DURGIN C.E. ON THIS FILE IN THIS OFFICE, JWD FILE #441, PLAN #3215.
7. "PLAN OF LOTS, PORTSMOUTH, N.H. FOR CALLEOPE APOSTOLAKES." DATED NOVEMBER 1972. PREPARED BY JOHN W. DURGIN C.E. ON THIS FILE IN THIS OFFICE, JWD FILE #441, PLAN #4291. R.C.R.D. C-3494.
8. WORKSHEETS AND FIELD NOTES OF JOHN W. DURGIN. ON THIS FILE WITH THIS OFFICE, JWD FILE #441.

EXHIBIT A

EXISTING CONDITIONS PLAN
SIMS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

TAX MAP 233 LOT 71
LAND OF: MICHAEL R. ROYLOS AND ISAAC M. ROYLOS
PREPARED FOR: CHRIS CLOUTIER

No.	DATE:	REVISION DESCRIPTION	BY	APPR.

SURVEYOR'S CERTIFICATION

"I HEREBY CERTIFY THAT THIS SURVEY AND PLAT WERE PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION AND IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND AND HAS AN ERROR OF CLOSURE OF GREATER ACCURACY THAN ONE PART IN FIFTEEN THOUSAND (1:15,000)."

LICENSED LAND SURVEYOR — 11/19/2025 DATE

STATE OF NEW HAMPSHIRE — No. 1054 — RYAN M. FOWLER — LICENSED LAND SURVEYOR — SIGNATURE

JAMES VERRA & ASSOCIATES, INC.
100 GRIFFIN WAY, UNIT C
PORTSMOUTH, N.H., 03801
603-436-3557 - ©2025
www.jvasurveyors.com

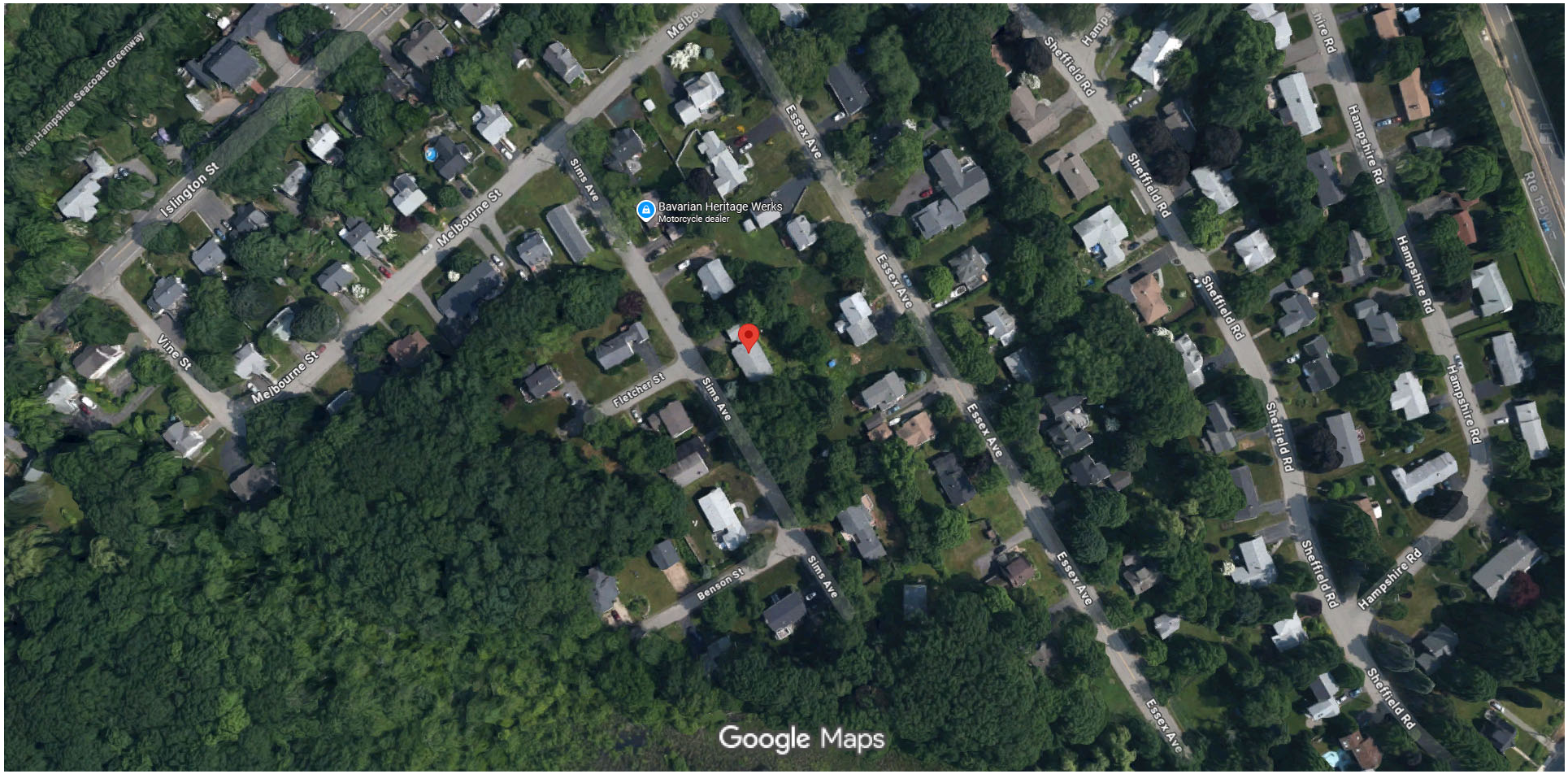
DATE: 11/19/2025	JOB NO. 25-2079
DRWN BY: DK	CHK'D BY: RMF
DWG NAME: 25-2079 EXCON.DWG	SCALE: 1" = 10'

SHEET: V-1

J:\2025 PROJECTS\25-2079 CLOUTIER SIMS AVE LOT 44 PORTSMOUTH NH_DWG\25-2079 EXCON.dwg 2025-11-19

Google Maps

25 Sims Ave



Imagery ©2025 Google, Imagery ©2025 Airbus, Maxar Technologies, Map data ©2025 100 ft

EXHIBIT B

EXHIBIT C

Book:6620 Page:1214

25014535 05/15/2025 11:53:39 AM
Book 6620 Page 1214 Page 1 of 2
Register of Deeds, Rockingham County



Return to:
Noucas Law Office
500 Market Street, Suite 8
Portsmouth, NH 03801

LCHIP	ROA706645	25.00
RECORDING		14.00
SURCHARGE		2.00

FIDUCIARY DEED

THAT, I, **MICHAEL R. ROYLOS,** of 18 Loraine Street, Portland, Maine, duly appointed as the Executor of the Estate of Annette Roylos, deceased, whose Estate was duly admitted to probate in the Probate Court for the County of Rockingham, New Hampshire, (Docket No. 318-2024-ET-00773) by the power conferred by law, and every other power, grant to **MICHAEL R. ROYLOS,** of 18 Loraine Street, Portland, Maine, and **ISAAC M. ROYLOS,** of 6421 SW 78th Street, Gainesville, Florida, as tenants-in-common, each having an undivided one-half interest, the following real estate located in Portsmouth, County of Rockingham, and State of New Hampshire, described as follows:

A certain tract of land, situate on the northeasterly side of Sims Avenue in Portsmouth, County of Rockingham, and State of New Hampshire, more particularly bounded and described as follows:

Beginning at a point on the southwesterly side of Sims Avenue at the westerly corner of land now or formerly of Warren O. Teague, et al; thence in a general northwesterly direction by Sims Avenue, fifty (50) feet to land now or formerly of Bernard F. Woods; thence in a general northeasterly direction by land of Woods, one hundred (100) feet to a point at land now or formerly of Michael Zymaris, et al; thence turning and running in a general southeasterly direction by land of Michael Zymaris, fifty (50) feet, more or less, to a point at land now or formerly of said Teague; thence turning and running in a general southwesterly direction by land of said Teague, one hundred (100) feet, more or less, to the point of beginning.

Said tract of land is otherwise identified as Lot #44 on the Plan of Daniels Park, made by C. A. Thayer, C.E. dated June 1918 and recorded in the Rockingham County Registry of Deeds, Book of Plans No. 1, Page 166 and on Plan 58 of the Portsmouth City Assessor's Plans.

Lots #42, #43 and #44, as shown on the above-described Plan of Daniels Park, were involuntarily merged by the City of Portsmouth. Lot #44 was unmerged from Lots #42 and #43

by vote of the Portsmouth City Council on April 7, 2025, pursuant to NH RSA 674:39. See Item #12 in Portsmouth City Memorandum entitled "Actions Taken at Portsmouth City Council Meeting Held on April 7, 2025." As a result of said unmerger, Lots #42 and #43 remain merged as a single lot and Lot #44 is a separate and single lot.

Meaning and intending to describe and convey the same premises conveyed to Sophie C. Roylos and Annette Roylos by Warranty Deed of Raymond L. Miller and Virginia D. Miller dated May 15, 1965, and recorded in the Rockingham County Registry of Deeds at Book 1766, Page 084.

Said Sophie C. Roylos having predeceased on February 13, 2013, and her death certificate being recorded herewith.

This property is conveyed subject to any and all mortgages, liens or other encumbrances of record.

This conveyance is exempt from the real estate transfer tax pursuant to NH RSA 78-B:2(XI).

WITNESS my hand this 12th day of May, 2025.

Estate of Annette Roylos

Witness

By _____
Michael R. Roylos, Executor

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

May 12, 2025

Then personally appeared the above-named, **MICHAEL R. ROYLOS,** in said capacity and acknowledged the foregoing instrument to be his free act and deed. Before me,

_____
Notary Public/Justice of the Peace

TERRI L. KIRBY
Notary Public - New Hampshire
My Commission Expires
June 15, 2027

NOTARY PUBLIC STATE OF NEW HAMPSHIRE

1766 084

Del G & B & Taylor U.S. Rev. Stamp $1.10

1766 084

Know all men by these presents

THAT, We, Raymond L. Miller and Virginia D. Miller both

of Portsmouth, Rockingham County, State of New Hampshire, for consideration paid, grant to Sophie C. Roylos and Annette Roylos both

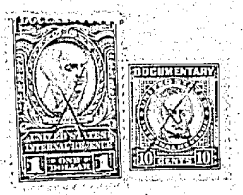
of Portsmouth, Rockingham County, State of New Hampshire, as joint tenants, with rights of survivorship/ and not as tenants in common, with WARRANTY COVENANTS,

A certain tract of land, situate on the northeasterly side of Simes Avenue in Portsmouth, County of Rockingham, and State of New Hampshire, more particularly bounded and described as follows:

Beginning at a point on the southwesterly side of Simes Avenue at the westerly corner of land now or formerly of Warren O. Teague, etal; thence in a general northwesterly direction by Simes Avenue, fifty (50) feet to land now or formerly of Bernard F. Woods; thence in a general northeasterly direction by land of Woods, one hundred (100) feet to a point at land now or formerly of Michael Zymaris, etal; thence turning and running in a general southeasterly direction by land of Michael Zymaris, fifty (50) feet, more or less, to a point at land now or formerly of said Teague; thence turning and running in a general southwesterly direction by land of said Teague, one hundred (100) feet, more or less, to the point of beginning.

Said tract of land is otherwise identified as Lot #41 on Plan 58 of the Portsmouth City Assessor's Plans.

Being the same premises which we acquired by Warranty Deed of Henry J. Robbins, dated February 17, 1958, recorded in Rockingham County Registry of Deeds, Book 1459, Page 195.



We, Raymond L. and Virginia D. Miller, being husband and wife, ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ our respective release to said Grantees all/rights of dower/curtesy and homestead and other interest therein.

WITNESS our hands and seals this 15 day of May, 1965

Witness:

Connie J. Bryan (CTA) — Raymond L. Miller

Virginia D. Miller

The State of New Hampshire

Rockingham, ss. May 15 1965

Then personally appeared the above named Raymond L. Miller and Virginia D. Miller and acknowledged the foregoing instrument to be their voluntary act and deed, before me

Connie J. Bryan
~~Notary Public~~ Justice of the Peace.

REC'D & RECORDED MAY 17 1965 9:38 AM

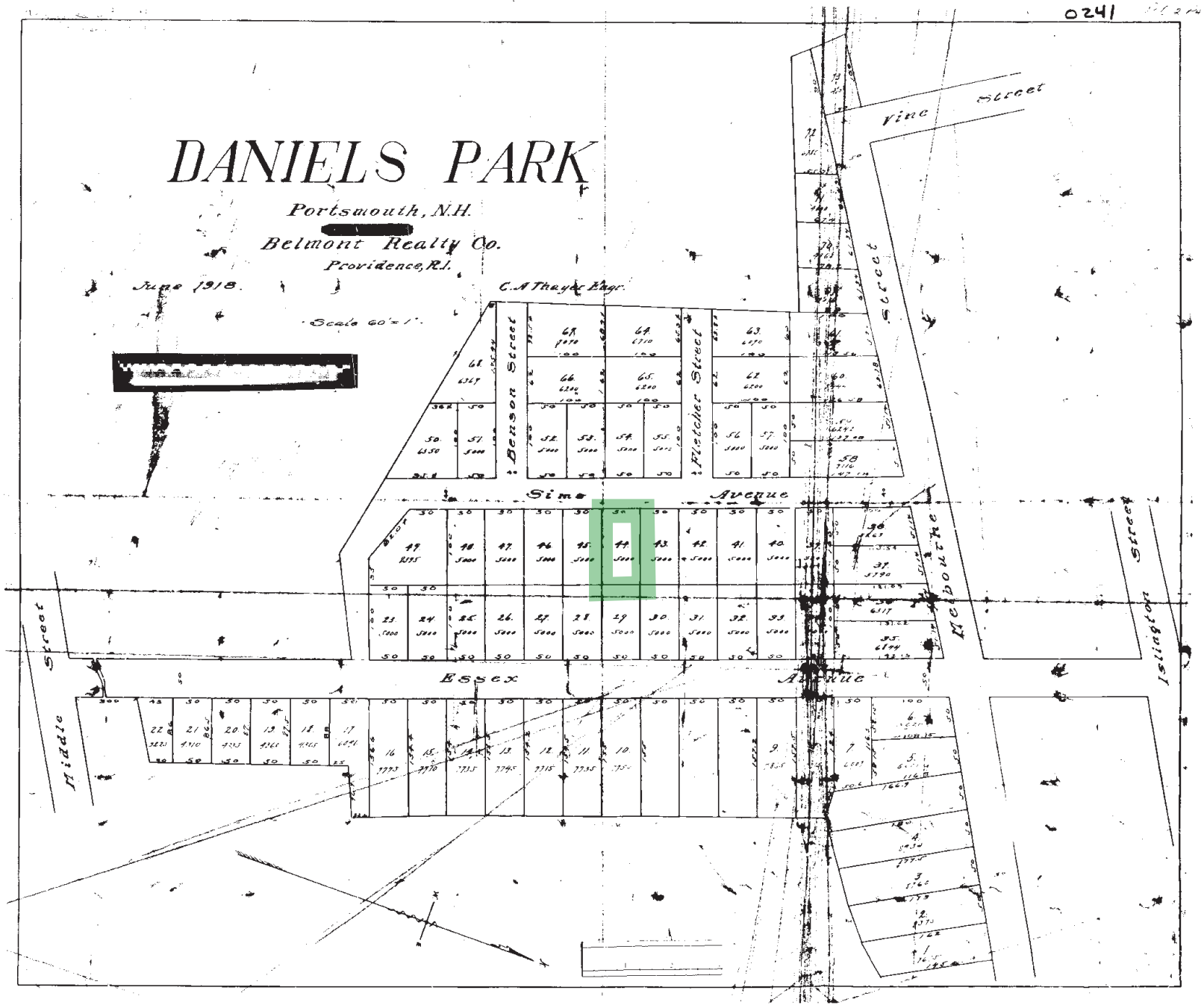

0241
DANIELS PARK
Portsmouth, N.H.
Belmont Realty Co.
Providence, R.I.
June 1918.
C.A Thuyle Engr.
Scale 60'=1".
Vine Street
Benson Street
Fletcher Street
Sims Avenue
Essex Avenue
Middle Street
McDonough Street
Islington Street

EXHIBIT D

EXHIBIT E

CITY COUNCIL MEETING

MUNICIPAL COMPLEX — PORTSMOUTH, NH
DATE: MONDAY, APRIL 7, 2025 — TIME: 7:00PM

Councilor Tabor moved to close the Non-Public Session and seal the minutes of the meeting. Seconded by Councilor Moreau and voted.

III. CALL TO ORDER

Mayor McEachern called the meeting to order at 7:07 p.m.

IV. ROLL CALL

PRESENT: Mayor McEachern, Councilors Tabor, Cook, Denton, Blalock, Bagley and Moreau

ABSENT: Assistant Mayor Kelley and Councilor Lombardi

V. INVOCATION

Mayor McEachern asked for a moment of silent prayer.

VI. PLEDGE OF ALLEGIANCE

Mayor McEachern led in the Pledge of Allegiance to the Flag.

MAYOR'S AWARD

1. Recognition of Everett Eaton

Mayor McEachern recognized Everett for his 25 years of service to the Economic Development Commission. He presented Everett with the gift of a door stop for keeping a lot of doors open over the years and guiding the city through many things.

2. Recognition of Andrea Amico

Mayor McEachern recognized Andrea for her leadership and work over the years regarding PFAS and the impact it has on communities.

VII. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this evening)*

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

1. Mary Loane – Mayor's Blue Ribbon Housing Committee

Ms. Loane said the Committee was created to expand housing units in the city. She spoke to the committee about the process and the review of a number of lots. She indicated the overall quality of life was a large concern for them when reviewing lots. Ms. Loane said the Committee is recommending that the city investigate the lower lot of City Hall because of the opportunities available with that parcel. She urged the city to continue its path to bring more residents and housing to the city.

Brian Goetz said this is important to the closeness of the reservoir. He said homes would change the character of the reservoir and said that this is a valuable piece of land and access to the reservoir. He said this goes beyond the price tag.

With no further speakers, Mayor McEachern declared the public hearing closed.

Councilor Blalock said that is a big impact on the city drinking water.

Councilor Cook thanked City Manager Conard and staff for protecting the area and our drinking water. She is concern about federal funs being secured but she feels it is important to support the Resolution.

Mayor McEachern said this is important and where Portsmouth gets its water.

On a unanimous roll call 7-0, motion passed.

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Report Back and Recommendation from the Planning Board Regarding 25 Sims Avenue

City Manager Conard said the Planning Board reviewed and the applicant initial request was denied because they wanted to merge all three lots, but the new request is to unmerge 1 lot.

Councilor Cook moved to unmerge Lot 44. Seconded by Councilor Bagley and voted.

2. Below Market Rate Housing Trust

City Manager Conard spoke to the new Below Market Rate Housing Trust. She reported that SoBow Square and the City are both contributing $250,000.00 to this Trust. She stated as part of the review, the city consulted with the Charitable Trust Division of the Attorney General's Office who provided guidance on the appropriate way to handle the investment of public versus private money.

Councilor Tabor moved to authorize the City Manager to execute the Below Market Rate Housing Trust as presented. Seconded by Councilor Moreau.

Councilor Moreau said a great deal of time was put into this and she is pleased with the result.

Motion passed.

3. Friends of Lafayette House PILOT Agreement

City Manager Conard said Assessor Lentz recommended entering into the PILOT Agreement and the Legal Department worked to create the agreement.

Councilor Blalock moved to authorize the City Manager to enter into a PILOT agreement with the Friends of Lafayette House in the amount of $3,500.00. Seconded by Councilor Denton and voted.

PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE

EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 PM Public Hearings begin **March 20, 2025**

MEMBERS PRESENT: Rick Chellman, Chairman; Anthony Coviello**,** Vice-Chair; Karen Conard, City Manager; Joseph Almeida, Facilities Manager; Beth Moreau, City Councilor; Members Paul Giuliano, Andrew Samonas**,** William Bowen, Ryann Wolf, and Alternate Frank Perier

ALSO PRESENT: Peter Stith, Planning Department Manager

MEMBERS ABSENT: None.

I. APPROVAL OF MINUTES

A. Approval of the **February 20, 2025** meeting minutes.

B. Approval of the **February 27, 2025** Work Session minutes.

*Vice-Chari Coviello moved to approve both sets of minutes as presented, seconded by Mr. Almeida. The motion **passed** with all in favor.*

*Vice-Chair Coviello moved to take Section VI. Other Business, Items B, 581 Lafayette Road, and Item A, Co-living Amendments, out of order to bring forward for discussion. Ms. Conard seconded. The motion **passed** with all in favor.*

II. PUBLIC HEARINGS – NEW BUSINESS

A. The request of **96 State Street LLC (Owner),** for property located at **96 State Street** requesting a parking Conditional Use Permit from Section 10.1112.14 to allow zero (0) parking spaces where thirty (30) are required. Said property is located on Assessor Map 107 Lot 52 and lies within the Character District 4 (CD-4) and Historic District. (LU-25-28)

SPEAKING TO THE PETITION

[Timestamp 30:36] Attorney Darcy Peyser was present on behalf of the applicant and reviewed the petition. She said the Conditional Use Permit was necessary to allow the applicant to expand and convert the upper second and third floors to a residential use. She said the second floor would be occupied by the restaurant owner and the third floor would be occupied by restaurant employees. She noted that the Historic District Commission (HDC) approved drawings in

more residential looking, with lower profiles. He said they received variances from the BOA that included eliminating the commercial use on the first floor and allowing duplex and rowhouse apartments. He said the Heinemann Building now had 27 residential units and all the necessary parking and there were four additional buildings, which he further described. He reviewed the parking. He said they would return to TAC for a formal review on April 1.

Vice-Chair Coviello moved that the Board accept the application for Design Review and schedule a public hearing at the April 17, 2025 Planning Board meeting. Ms. Conard seconded.

[Timestamp 1:47:59] Mr. Bowen said in the earlier version, a few spaces were below market rate, and he asked if the design change would impact that number. Mr. Wilson said they wound up with some smaller, more affordable units. He said when they went to TAC, they had proposed a multi-modal way that would have allowed a vertical expansion, and that they also found out that it needed to be a modal way for all forms of transportation, which he further explained. Mr. Bowen said the answer was that there would not be any units below market rate. Vice-Chair Coviello asked if a gate blocked the non-multi modal way and if people were allowed to walk through there. Mr. Wilson said the intention was to have a gate allowing limited access for vehicles, but the sidewalk leading to the property would allow pedestrians. Vice-Chair Coviello said there would then be a gate to prevent vehicles other than the residents' vehicles to get there. Mr. Wilson said the building next to them had the right to use their driveway to get to Hanover Street. He said the traffic going through there was untethered so they did not feel that it was good for the residences. He said the traffic study would preclude them from having traffic cut through. Vice-Chair Coviello said pedestrians would then not walk through that area. Mr. Wilson said they would use the property's sidewalk. Chair Chellman told the Board to be prepared to discuss pedestrian and vehicular circulation and multi modal issues at the next meeting. Mr. Perier asked how close the building heights would be to the Rock Street buildings. Mr. Wilson explained why he thought it would be a 33-ft average elevation, with the building set up 1-12 feet off the sidewalk and that the elevations were similar to others in the area. It was further discussed.

*The motion **passed** by a vote of 8-0, with members Councilor Moreau and Mr. Samonas abstaining.*

V. CITY COUNCIL REFERRALS

A. **25 Sims Avenue** – Involuntary Merger Reversal (RIML-25-1)

[Timestamp 1:57:40] Mr. Stith said the property used to be three lots and the applicant was requesting to unmerge one of the lots. He said the applicant's aunt owned the property and built a house that crossed two of the houses in the 1960s, and then the third lot was bought. He said the City Assessor merged them all and that the applicant asked that the part of the property that was vacant, the third lot, be unmerged. He said the assessor recommended that the lot be unmerged. He said the City Council referred it to the assessor and the Planning Board for a report back. It was further discussed.

*Ms. Conard moved that the Board recommend that the City Council restore Lot 44 only. Councilor Moreau seconded. The motion **passed** with all in favor.*

Partial Legend

See the cover sheet for the complete legend.

- **7-5A** Lot or lot-unit number
- *2.56 ac* Parcel area in acres (ac) or square feet (sf)
- Address number
- 233-137 Parcel number from a neighboring map
- 68' Parcel line dimension
- SIMS AVE Street name
- Parcel/Parcel boundary
- Parcel/ROW boundary
- Water boundary
- Structure (1994 data)
- Parcel covered by this map
- Parcel from a neighboring map (see other map for current status)

EXHIBIT F

0 50 100 200 300 Feet

0 20 40 80 Meters

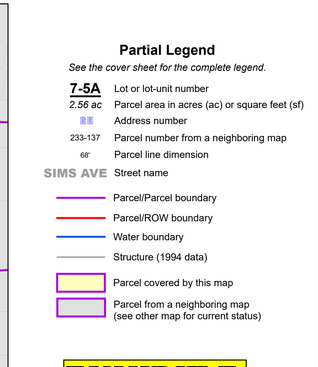
This map is for assessment purposes only. It is not intended for legal description or conveyance.
Parcels are mapped as of April 1.
Building footprints are 2006 data and may not represent current structures.
Streets appearing on this map may be paper (unbuilt) streets.
Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.

SUBJECT LOT

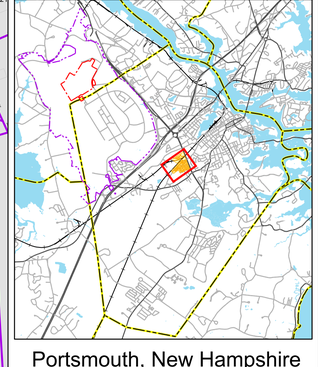
Nonconforming Lot Size & Frontage

Nonconforming Lot Size

Nearby Tax Maps



Map Location



Portsmouth, New Hampshire
2025

Tax Map 233

Partial Legend

See the cover sheet for the complete legend.

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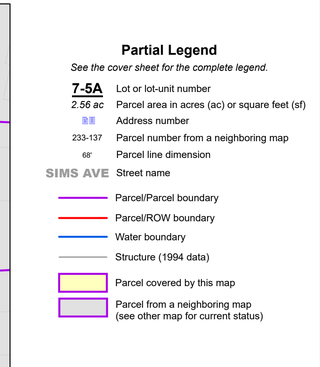
EXHIBIT G

0 50 100 200 300 Feet

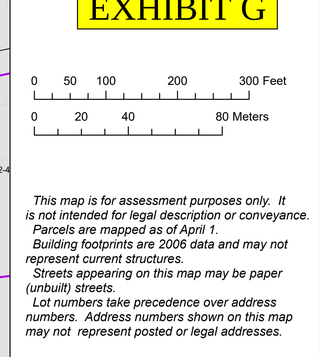
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Portsmouth, New Hampshire
2025

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